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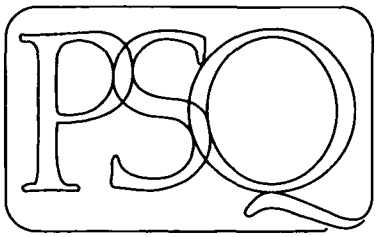

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From the Editor:

In this issue . . .

JEROME SLATER argues that in certain circumstances in the war on terrorism, the coercion or perhaps even the torture of captured terrorists may be both necessary for national security and morally a lesser evil than the preventable mass murder of innocents.

DOUGLAS JAENICKE and ALEX WADDAN analyze the distinctive partisan politics that culminated in the passage of the 2003 Medicare Prescription Drug, Improvement and Modernization Act, which not only created a new prescription drug benefit for the elderly but also advanced a Republican agenda for re-structuring Medicare and health care more generally. They argue that while electoral expediency drove most Republicans to support drug coverage for the elderly, their stealth-like conservative reforms of Medicare caused most Democrats to oppose the details of the Republicans' legislation.

SETH G. JONES examines the increase in cooperation of Europe's defense industry. He challenges the view that European cooperation is more fiction than fact and argues that the changing structure of the international system has caused a notable rise in defense cooperation. European states, he argues, have been motivated by a desire to decrease reliance on the United States and to increase European power.

JOHN W. DIETRICH explores U.S. human rights policy in the post-Cold War era. He notes important policy developments, but also continued constraints. He concludes that the constraints stem from the realities of global and domestic politics.

QUINTAN WIKTOROWICZ and KARL KALTENTHALER focus on how spiritual incentives inspire Islamic radicalism. They argue that radical Islamic groups offer spiritual incentives and strategies for fulfilling divine duties and maximizing the prospect of salvation on judgment day. They conclude that the choice of individuals to move to high-cost and high-risk activism can be understood as a rational decision.

DEMETRIOS JAMES CARALEY

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Tragic Choices in the War on Terrorism: Should We Try to Regulate and Control Torture?

JEROME SLATER

What should be done about the problem of torture in the war on terrorism? Which is better—or worse: the continuation of a principled but ineffective "ban" on torture, or an effort to seriously regulate and control torture, at the price of its partial legitimization?

Until 11 September 2001, the issue scarcely arose. Since the end of the eighteenth century, nearly every civilized society and moral system, certainly including the Judeo-Christian, or Western, moral system, in principle (although not always in practice) has regarded torture as an unmitigated evil, the moral prohibition against which was to be regarded as absolute.[1] Since September 11, however, many Americans—not just government officials, but a number of moral and legal philosophers, as well as media commentators—are far from sure that torture must be excluded from our defenses against truly catastrophic terrorism. In any case, there no longer can be any question that since September 11, agencies of the American government, particularly the armed forces and the Central Intelligence Agency (CIA), have systematically used various forms of physical and psychological coercion, beatings, or even outright torture (especially "waterboarding," or near-drowning) on suspected terrorists, both directly, as in Afghanistan, Iraq, and Guantanamo Bay, or indi-

[1] For a brief history of the use of torture in European judicial systems and practice, see James Ross, "A History of Torture" in Kenneth Roth, Minky Worden, and Amy D. Bernstein, eds., *Torture: Does it Make Us Safer? Is It Ever OK?: A Human Rights Perspective* (New York: Human Rights Watch, 2005), 3–17.

JEROME SLATER, a frequent contributor to *Political Science Quarterly*, is a university research scholar at the State University of New York at Buffalo. He is working on a history of U.S. policy in the Arab-Israeli conflict.

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rectly, by turning over suspected terrorists to allied states that are known to torture.[2]

To be sure, in some cases, lower-level soldiers have apparently gone beyond what was authorized, or at least tacitly condoned. However, various reports and investigations have left no serious doubt that the overall use of methods that have long been considered to amount to torture, or something close to it, have been either authorized, defended as legal, or, at a minimum, condoned at the highest levels of the American government, apparently including Secretary of Defense Donald Rumsfeld, if not beyond him.[3]

Assuming that this assessment is accurate, what can be done about it? Even more pointedly, what *should* be done about it? I will address these issues in the framework of traditional just-war analysis, a very useful perspective that often has been neglected in the recent discussions about torture. My premise is that the war on Islamic terrorism is indeed legitimately regarded as a war, however untraditional; if so, I will argue, the issues raised by torture should be regarded as simply a special case of the issues raised by any normally unjust means that may or may not be employed in a just war.

There are essentially three positions that can be taken about the problem of torture. The first is the traditional moral position: torture is categorically (that is, absolutely) prohibited, and there are no exceptions.

[2] These practices have been revealed in reports by the International Red Cross, Human Rights Watch, and Amnesty International; by a number of investigative reporters; and even by internal American military investigations that have been leaked to the press. The most detailed and authoritative works are Amnesty International, "Guantanamo and Beyond," May 2005; Mark Bowden, "The Dark Art of Interrogation," *Atlantic Monthly*, October 2003, 51–76; Mark Danner, *Torture and Truth: America, Abu Ghraib, and the War on Torture* (New York: New York Review of Books, 2004); Seymour M. Hersh, *Chain of Command: The Road from 9/11 to Abu Ghraib* (New York: HarperCollins, 2004); Human Rights Watch, "Torture in Iraq," 25 September 2005; Joseph Lelyveld, "Interrogating Ourselves," *New York Times Magazine*, 12 June 2005, 36–69; Jane Mayer, "The Experiment," *New Yorker*, 11 and 18 July 2005; PBS *Frontline* Special Report, "The Torture Question," 19 October 2005. See also Carlotta Gall, "Rights Group Reports Deaths of Men Held by U.S. in Afghanistan," *New York Times*, 14 December 2004 and 19 December 2005; David Johnston and James Risen, "The Reach of War: The Interrogations," *New York Times*, 27 June 2004; David Johnston, "Rights Group Cites Rumsfeld and Tenet in Report on Abuse," *New York Times*, 24 April 2005; Warren Hoge, "Investigators for UN Urge U.S. to Close Guantanamo," *New York Times*, 17 February 2006; Douglas Jehl, "Report Warned on CIA's Tactics in Interrogation," *New York Times*, 9 November 2005; Anthony Lewis, "Making Torture Legal," *New York Review of Books*, 15 July 2004; Eric Schmitt and David Rohde, "About 2 Dozen GIs to Face Trial or Other Punishment in Deaths of 2 Afghan Prisoners," *New York Times*, 2 September 2004.

[3] For a summary of the evidence that torture and actions "tantamount to torture" (in the language of a report by the International Red Cross) are "a direct product of an environment of lawlessness, created by policy decisions taken at the highest levels of the Bush Administration," see Kenneth Roth, "Justifying Torture" in Roth, Worden, and Bernstein, eds., *Torture; Does It Make Us Safer?*, 191. For a similar assessment, charging that the Bush Administration had made "a deliberate policy choice" to employ abusive interrogation in the interrogation of terrorism suspects, see the 2005 Annual Report of Human Rights Watch, summarized in "Rights Group Assails the U.S. Over Abuse of Terror Suspects," *New York Times*, 19 January 2006.

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The second position is that the legal and moral norm of categorical prohibition must be maintained in principle, law, and rhetoric—even as we recognize and tacitly accept that there might be certain exceptional circumstances in which there is a strong case for overriding the norm. Thus, although we should not provide the authorities with any institutionalized or advance authorization for torture, in the exceptional cases we may rightfully decide not to punish those representatives of the state who have violated the norm. "We'll do what we have to do," as Joseph Lelyveld puts it: "Don't ask, don't tell."[4]

The third position is that terrorism—especially but not necessarily limited to terrorism with weapons of mass destruction (WMD)—is likely to be a long-term if not permanent threat and is so grave that "exceptional circumstances" have become the norm. Consequently, the task today is to create some type of legal and institutional framework for the regulation and control of torture, to ensure that it is resorted to in the war on terrorism *only* when the consequences of not doing so are so terrible as to outweigh the terrible nature of torture itself.

I shall defend the third position, arguing that the question of means in just wars must be considered from two different perspectives (sometimes complementary, but sometimes in conflict): that of national security, and that of morality or justice. Proceeding from that premise, I shall argue that in the war on terrorism, physical or psychological coercion and, in especially exceptional circumstances, even outright torture may be defensible from both of those perspectives, certainly from the perspective of national security, and even—as a lesser evil—in terms of moral consequences. At the same time, however, the risks that torture will be used—indeed, is already being used—when it is *not* defensible from either perspective are so great that serious institutional controls over torture must be established.

Perhaps I should add this: in making this admittedly painful argument, it is not my intention to be polemical. The torture issue is no longer considered to be beyond—or beneath—debate. My purpose here is to join this emerging debate, both at the analytical level and to make explicit the arguments and policy suggestions that seem to follow from the analysis. However, inasmuch as we are still at an early stage in this debate, those who are participating in it may well make logical, moral, or empirical errors; if these occur, they can be corrected only by further debate.

Debating Torture: The Recent Literature

Until quite recently, there has been considerable doubt among moral, legal, and political philosophers about whether there ought to be any public debate about torture. Most of these thinkers believed that torture should be regarded as simply beyond the pale; public discussion or debate might have the perverse consequence of legitimating it. Indeed, even the few scholars who argued that

[4] Lelyveld, "Interrogating Ourselves," 69.

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torture could sometimes be seen as a lesser evil sometimes conceded that the risk of legitimation precluded public discussion. Whatever the validity of this concern, the issue is now moot. In the last few years, there have been a number of discussions of the torture issue in leading media, as well as in academic conferences and, especially, in the recent publication of major works by some of America's leading political, legal, and moral thinkers.[5] Thus, the meta debate (that is, should there be a debate?) is effectively over, and the substantive debate has begun.[6]

The main issues in this debate are these: What constitutes torture? Should all forms of physical or mental coercion be considered torture? If so, should all of them be unconditionally prohibited? If, on the other hand, it is legitimate to make distinctions, where is the line to be drawn? Are there real-world cases in which some kinds of coercion—or perhaps, in extreme cases, *any* kind of coercion, including torture by any definition—are morally justifiable, if only by a lesser-evil argument? If so—and in the context of the existing realities, this may be the most important question of them all—how can coercion or torture be limited to only those cases in which it is indeed a lesser evil?

What Is Torture?

Surprisingly, the very definition of torture has become more controversial in the last few years, and efforts to clarify it for both legal and moral purposes have created a dilemma: if it is defined too broadly, it fails to make morally relevant distinctions, but if it is defined too narrowly, it opens the door to various euphemisms that may seem to condone many forms of severe prisoner abuse that fall outside the definition.

According to all the major dictionaries, torture means more than the infliction of physical duress, stress, or even mere pain; it consists of the infliction of "intense," "excruciating," "great," or "severe" pain.[7] Similarly, the UN

[5] The major works that will be examined here are Karen J. Greenberg, ed., *The Torture Debate in America* (New York: Cambridge University Press, 2006); Philip B. Heymann and Juliette N. Kayyem, *Protecting Liberty in an Age of Terror* (Cambridge, MA: MIT Press, 2005); Michael Ignatieff, *The Lesser Evil: Political Ethics in an Age of Terror* (Princeton, NJ: Princeton University Press, 2004); Sanford Levinson, ed., *Torture: A Collection* (New York: Oxford University Press, 2004); Roth, Worden, and Bernstein, eds., *Torture: Does It Make Us Safer?*; Michael Walzer, *Arguing About War* (New Haven, CT: Yale University Press, 2004).

[6] A useful discussion of the meta debate can be found in Oren Gross, "The Prohibition on Torture and the Limits of the Law" in Levinson, ed., *Torture: A Collection*, 249–250. Gross concludes that public debate on torture is critical: "The alternative to no debate ... (or, indeed, to discussion that merely consists of repeating the mantra that torture must be absolutely prohibited) is not the disappearance of the practice of torture. ... By not discussing [torture] ... we do not make it go away; we drive it underground. ... We may as well make ... choices in as informed a manner as possible, taking into account the widest panoply of relevant moral and legal considerations."

[7] See Webster's Third New International Dictionary, the Oxford English Dictionary, and Cambridge International Dictionary.

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Convention Against Torture (to which the United States is a party) distinguishes between torture ("any act by which severe pain or suffering, whether physical or mental, is inflicted") and "other acts of cruel, inhuman, or degrading treatment or punishment which do not amount to torture." Although both are legally prohibited, only "torture" is done so in absolute terms: "No exceptional circumstances whatsoever, whether a state of war...or any other public emergency, may be invoked as a justification of torture."

Pentagon officials and legal advisers to the administration of George W. Bush have relied on these dictionary and UN definitions to deny that recently revealed U.S. interrogation measures—such as hooding prisoners, keeping them naked, binding them in painful "stress" positions, threatening them with dogs, subjecting them to sustained loud noises as well as heat and cold, or depriving of them sleep—constitute torture. In their initial position (the Bybee memorandum), Bush legal advisers sought to narrow the definition even further, taking advantage of the UN language in order to distinguish interrogation methods that were "merely" cruel, inhuman, or degrading from outright torture, defined as actions that "produce pain and suffering...equivalent in intensity to the pain accompanying serious physical injury, such as organ failure, impairment of bodily function, or even death."[8] However, after severe criticism, the Justice Department formally retreated from the Bybee memorandum in late 2004; the Bush administration now officially accepts that any "severe" physical and mental pain and suffering constitutes torture and is therefore prohibited by U.S. as well as international law.[9]

In some recent discussions of the torture issue, the varying administration distinctions have been regarded as meaningless or hypocritical, mere euphemisms that are designed to conceal the harsh reality that "at the highest levels of the Pentagon there was an interest in using torture as well as a desire to evade the criminal consequences of doing so."[10] Yet, although lawyers for the Bush administration are hardly disinterested parties in the debate over torture, it is undeniable that most of the other major participants in the ongoing debate are agreed on the need to distinguish torture from lesser abuses, suggesting

[8] Memorandum from Assistant Attorney General Jay Bybee, 1 August 2002, reprinted in Danner, *Torture and Truth*, 115, 141.

[9] On the revised administration position, see a statement of Secretary of State Condoleeza Rice, in Joel Brinkley, "U.S. Interrogations Are Saving Lives, Rice Says," *New York Times*, 6 December 2005, and Neil A. Lewis, "U.S. Spells Out New Definition Curbing Torture," *New York Times*, 1 January 2005. However, a number of investigations have established that the administration has used "waterboarding" in its interrogations of captured high-level al Qaeda officials. Waterboarding—forcing a person's head under water until he almost drowns, or at least fears drowning—is torture by any reasonable definition; nonetheless, Porter Goss, the head of the CIA, has defended it as "a professional interrogation technique." Roth, "Justifying Torture" in Roth, Worden, and Bernstein, eds., *Torture: Does It Make Us Safer?*, 194.

[10] James Fellner, director of U.S. programs for Human Rights Watch, quoted in "The Reach of War: Legal Opinions," *New York Times*, 8 June 2004.

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names like "coercion," "physical or mental abuse," "torture lite,"[11] or "highly coercive interrogation."[12]

The case for drawing distinctions is a strong one. If we were to insist that torture must be understood as comprising all forms of interrogation that go beyond the noncoercive, we would then have to invent other words to capture the morally relevant distinctions between, say, sleep deprivation and other kinds of nonfatal physical and mental pressures and the more truly fiendish, nearly unimaginable forms of torture or murder that fanatics, sadists, or psychotic autocrats have inflicted on their victims throughout history.

That said, the rather odd distinctions in the UN Convention Against Torture will not do; the distinction between torture and "cruel, inhuman, or degrading" treatment does not seem morally compelling. Similarly, it is not clear that the distinction between "highly coercive interrogation" and "torture" is meaningful—at least not sufficiently meaningful that the former may sometimes be acceptable but the latter must always be categorically prohibited. Perhaps the best solution is to distinguish between "torture," which should continue to be defined as the infliction of severe physical or mental pain, and "coercion," defined as significantly less-severe measures than torture (as already mentioned, stress binding, sleep deprivation, exposure to heat and cold, and the like)—although such measures, if sufficiently intense and sustained, might well become indistinguishable from outright torture. In short, in order to maintain the dictionary and everyday usages as well as to facilitate the making of morally relevant distinctions, it is important to distinguish between torture and coercion, even though sometimes the line between them may be thin.

Is Torture or Coercion Ever Morally Allowable?

At least among lawyers and legal scholars who are not working for the Bush administration, there is no serious doubt that not merely outright torture but all forms of "cruel, inhuman, or degrading practices" or physical coercion are illegal under American law, whether derived from the Constitution, from congressional legislation (such as the recent McCain amendment), or from international treaties to which the United States is legally bound. Thus, the central issue in the current debate is—or should be—whether the terrorist threat has made current law outmoded, considered from the perspectives of both national security and morally acceptable consequences.

As is widely understood, the most extreme case that would test the existing categorical prohibitions on torture—so far hypothetical, but one that may not be remote in the foreseeable future—would be an apparently imminent terrorist attack against cities, using biological or nuclear weapons that could kill hundreds of thousands of innocents. Less extreme are the already-existing

[11] Bowden, "The Dark Art of Interrogation," 4.
[12] Heymann and Kayyem, *Protecting Liberty*, 12.

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cases, which are highly likely to reoccur—non-WMD terrorist attacks that do not destroy entire cities but do kill large numbers of innocents, as in the terrorist attacks on the World Trade Center and on the passenger trains in Madrid.

Just-war Theory and the Torture Issue

The most useful, systematic, and sophisticated framework in which to examine the moral issue of torture in the war on terrorism is just-war theory. A good place to begin is with a reexamination of the writing of Michael Walzer, the most authoritative contemporary just-war thinker,[13] following with an assessment of two recent major philosophical books that analyze, either explicitly or inferentially, the torture issue in just-war terms: Michael Ignatieff, *The Lesser Evil: Political Ethics in an Age of Terror* (Princeton University Press, 2004), and Sanford Levinson, ed., *Torture: A Collection* (New York: Oxford University Press, 2004).

Both Walzer and Ignatieff consider the age-old but still perplexing issue of whether "the end justifies the means": is it morally allowable to use unjust means if the use of them is necessary to reach a just end or realize a just cause? In broad terms, there are two different philosophical or ethical systems or traditions that consider this issue: consequentialism (or utilitarianism) and categorical morality. Consequentialist moral reasoning holds that we may morally judge actions only in terms of their practical consequences; categorical morality holds that there are certain rules or principles that must never be violated, regardless of the circumstances—or, as the Catholic moral tradition holds, evil may never be done so that good can come of it.

In general, Walzer is a categorical moralist, for he insists that we must make separate moral evaluations of the causes for which wars are fought (*jus ad bellum*) and the means by which wars are fought (*jus in bello*). Even just wars, then, are absolutely prohibited from employing unjust means, which principally means that innocent civilians or noncombatants may never be deliberately attacked. The same reasoning, it would appear, would preclude the use of torture—surely an unjust means.

There is, however, one critically important exception to Walzer's application of categorical morality to warfare: "supreme emergency," which "exists when our deepest values and our collective survival are in imminent danger."[14] Walzer examines the British bombing of German cities early in World War II, when Britain's defeat seemed imminent, no other means of defense was working, and the bombing of cities seemed to have some chance of dissuading Hitler

[13] Michael Walzer, *Just and Unjust Wars* (New York: Basic Books, 1977); Michael Walzer, *Arguing About War* (New Haven, CT: Yale University Press, 2004). Although Walzer does not directly address the issue of torture, it seems reasonable to infer his position, both from his overall moral philosophy as well as his decision to allow the reprinting of his famous essay, "Political Action: The Problem of Dirty Hands" in Levinson, ed., *Torture: A Collection*, 61–75.

[14] Walzer, *Arguing About War*, 33.

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from attacking. In these circumstances of "supreme emergency," Walzer becomes a consequentialist:[15] there are no longer any prohibitions on methods that are genuinely necessary to win a just war, not even indiscriminate bombing of cities. In his recent work, Walzer puts it this way: "When our deepest values are radically at risk, the constraints lose their grip, and a certain kind of utilitarianism reimposes itself. I call this the utilitarianism of extremity, and I set it against a rights normality. ... No government can put the life of the community itself and of all its members at risk, so long as there are actions available to it, even immoral actions, that would avoid or reduce the risk."[16]

To be sure, not everyone accepts Walzer's supreme emergency argument, but for those who do (like this author), the same logic must hold true for torture. That is, if it is not categorically prohibited to deliberately attack many thousands of innocent civilians if and when no other means in a just war are available to ensure the literal survival of entire societies, then it is hard to see why it should be absolutely forbidden to torture terrorist combatants if it is necessary to do so to save cities—or even, perhaps, when the stakes in terms of innocent lives are very high but short of constituting a supreme emergency. I shall return to this argument below.

It is an observable and unsurprising fact that in this debate, there is a direct relationship between how seriously one takes the threat of mass-casualty terrorism and the position one takes on the torture issue. Some of those who are participating in the recent debate seem to implicitly or even explicitly minimize the threat.[17] That is not the view, however, of the National Commission on Terrorist Attacks Upon the United States (hereinafter, 9/11 Commission), which cited the evidence that Osama bin Laden and al Qaeda have been actively seeking to acquire WMD, nor of most academic specialists in international security—particularly those who have some governmental experience in either defense or intelligence agencies.[18]

[15] But *only* in these circumstances, as opposed to the later British and American city bombings of Germany and Japan, when the allied victory was already assured.

[16] Walzer, *Arguing About War*, 40, 42.

[17] For example, the journalist and commentator William Pfaff writes that to most of the democratic world, the American claims about the threat of terrorism seem grossly exaggerated, and therefore U.S. behavior is disproportionate. William Pfaff, "What We've Lost: George W. Bush and the Price of Torture," *Harper's Magazine*, November 2005, 50–56. Similarly, the General Counsel for Human Rights Watch clearly minimizes the dangers of WMD terrorism when she denies that "we live in an entirely different world than has ever existed at any time or place." (Dinah Pokempner, "Command Responsibility for Torture" in Roth, Worden, and Bernstein, eds., *Torture: Does It Ever Make Us Safer?*, 171. The lawyer Joshua Dratel, the law professor Stephen Holmes, and the legal philosopher David Luban also tend to dismiss the WMD threat as exaggerated, not "realistic," or not "representative." Greenberg, ed., *The Torture Debate*; see especially 114, 127.

[18] On the September 11th Commission's finding, see its *Final Report*, 4 August 2004. See also the authoritative work by a leading academician and former high government official, Graham Allison, *Nuclear Terrorism: The Ultimate Preventable Catastrophe* (New York: New York Times Books, 2004). Stephen Van Evera of MIT, another leading national security expert, points out that Osama Bin

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Thomas Kean, chairman of the 9/11 Commission, has summed up the consensus of the governmental and academic specialists: "We have no greater fear than a terrorist who is inside the United States with a nuclear weapon. The consequences of such an attack would be catastrophic for our people, for our economy, for our liberties."[19] Indeed, if anything, this formulation *understates* the threat: why just one nuclear weapon in one city? If organized terrorist groups succeed in acquiring and detonating one nuclear weapon in one city, what will prevent them from acquiring other nuclear weapons and detonating them in other cities?

In short, a review of the literature suggests that the more seriously one takes the threat of terrorism—especially, but not necessarily exclusively, the threat of WMD terrorism—the less persuasive are the arguments against coercive interrogations, "torture lite," or even, in some instances, outright torture. One of the few exceptions is Michael Ignatieff, whose credentials in national security are not in doubt. Ignatieff argues for a categorical or absolute prohibition against not only torture but also physical (although not "nonphysical") coercion. Presumably, then, he would hold to these prohibitions even in the case of a genuine supreme emergency, such as an imminent WMD attack against a city.[20] Leaving aside, for the moment, whether this is a morally persuasive position, it would seem to be quite anomalous in light of Ignatieff's overall consequentialist argument that in the war on terrorism, it will be necessary to choose lesser evils to avoid even greater ones, and that included among these necessary and justified lesser evils are various forms of violence, assassinations, and perhaps even preemptive war.

Laden has explicitly said that "to kill Americans ... civilian and military—is an individual duty for every Muslim" and that al Queda's press spokesman, Suleiman Abu Ghaith, "has claimed the right to kill four million Americans, including two million children." Van Evera further notes that the leaders of al Qaeda "seek to acquire weapons of mass destruction and may also have the opportunity: enough nuclear materials remain poorly secured in Russia to make tens of thousands of Hiroshima-sized atomic bombs. Many Soviet nuclear and biological weapons scientists also remain underpaid or unemployed, ripe for hiring by terrorists." Stephen Van Evera, "Why U.S. National Security Requires Mideast Peace," MIT Center for International Studies, May 2005, 1–2.

[19] Quoted in Philip Shenon, "Sept. 11 Report Card Assails U.S. Progress Against Terror," *New York Times*, 15 November 2005.

[20] To be sure, Ignatieff does concede that "when we have to face terrorists who control weapons of mass destruction ... most bets—and gloves—would be off." Ignatieff, "The Lesser Evil," 10. But this is not his judgment of what, morally speaking, should or at least must be done, but only his prediction of what realistically will happen. In a more recent essay, Ignatieff similarly hedges his argument a bit, conceding that most Americans will not agree with him, and that in a crisis they will "privilege security over liberty and thus reluctantly endorse torture in their name." Michael Ignatieff, "Moral Prohibition At a Price" in Roth, Worden, and Bernstein, eds., *Torture: Does It Ever Make Us Safer?*, 27. Although this concession is not inconsistent with his normative position, it does suggest that categorical prohibitions against not merely torture but all forms of coercive interrogation are wholly impractical.

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In the recent literature, a number of eminent lawyers, as well as political, moral, and legal philosophers, examine in forthright fashion the arguments for and against continuing to treat torture as categorically and unconditionally prohibited. Surprisingly, only a minority seem to hold to the traditional position that torture should be both defined broadly and totally banned (among them, the playwright and novelist Ariel Dorfman; Joshua Dratel, a defense attorney; the legal philosopher David Luban; and Kenneth Roth, Executive Director of Human Rights Watch).

Several other powerful condemnations of torture nonetheless end by reluctantly seeming to accept—either directly (Henry Shue) or by implication (Elaine Scarry)—that in some extreme circumstances, torturers might be able to plausibly argue that torture was necessary to avoid catastrophe. Still others would ban torture more narrowly defined, but accept "torture lite" or "highly coercive interrogation" in extreme circumstances.[21] Several other essayists even more explicitly argue that torture should be regarded as a lesser evil in extreme cases, and still others—in particular, Jean Bethke Elshtain, John T. Parry, and Judge Richard A. Posner—suggest (either explicitly or by unavoidable implication) that even in some situations short of supreme emergency, torture might legitimately be regarded as a lesser evil.

Only a few writers, however, notably Alan Dershowitz,[22] Andrew C. McCarthy (a former Federal district attorney),[23] and Heymann and Kayyem, argue that because torture (or only great coercion, for the latter writers) is sometimes necessary, the law should be changed and torture/coercion brought within the U.S. legal system, so that they can be regulated and controlled. In particular, Dershowitz argues, the security services must be required to apply to judges for "torture warrants," in which they must present evidence that torture is required in each case in which it is contemplated. Only judges, trained to evaluate evidence and to balance competing values, such as "the needs for security against the imperatives of liberty," should decide—openly and under the law—whether torture is (literally) warranted.

The Dershowitz proposals have been widely rejected, often with anger and contempt—a "stunningly bad idea," in Elshtain's words[24]—even by those who (like Elshtain herself) accept that in some cases, torture may be the lesser evil.

[21] See especially Heymann and Kayyem, *Protecting Liberty*, 12–13. However, given the emphasis that these authors place on protecting national security against very real threats, including the threat of WMD attack, and their willingness to countenance "highly coercive interrogation" in extreme situations, it is not easy to understand why they draw the line at torture. The explanation is probably that they give great weight to not violating the law of the land, which indeed prohibits torture—but if the threat is great and the line between highly coercive interrogation and torture is very thin, then why not simply argue for a change in the law?

[22] Alan Dershowitz, "Tortured Reasoning" in Levinson, ed., *Torture: A Collection*, 257–280.

[23] Andrew C. McCarthy, "Torture: Thinking About the Unthinkable" in Greenberg, ed., *The Torture Debate*, 98–100.

[24] Jean Bethke Elshtain, "Reflection on the Problem of 'Dirty Hands'" in Levinson, ed., *Torture: A Collection*, 83.

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Hard cases make not only bad law but also bad ethics, it is often said. Rather than normalizing, institutionalizing, or legitimizing torture, it is argued, it is far better to continue the formal and official prohibition—even if an after-the-fact necessity defense might be available to those who authorize or engage in torture. In extreme circumstances, the consensus position holds, military and security professionals must be prepared to do what must be done, while later seeking to avoid punishment by convincing the courts or public opinion that there was no other choice.

Confronting the Arguments against Torture

Let us suppose that the security services capture someone who (on the basis of substantial evidence) is almost surely a member of a terrorist cell that is on the verge of carrying out a major attack against a city. Should this situation occur, we might ask ourselves three questions: In all likelihood, what *would* the authorities do? What *should* the authorities do? And, if torture or coercion cannot or should not be ruled out in this situation, then how can they be limited to only those situations in which they are the lesser evil?

Surely there can be no doubt about what the authorities would do in those circumstances—and in practical terms alone, that suggests the need for serious consideration of how to prevent abuses. Further, because there is an increasingly widespread understanding that the stakes are so high in the war on terrorism, especially but not limited to WMD terrorism, it seems evident that most Americans—including, as we now know, many eminent moral philosophers—would also agree that the authorities should do whatever it takes to prevent catastrophe.[25]

It does not necessarily follow, of course, that the opinion of the public or of a number of philosophers is persuasive; the moral issue must be examined on the merits. My central argument is that the moral issue raised by torture in the war on terrorism should be regarded as no different in principle from the broader moral issues inherent in war, generally. We do not absolutely proscribe war if the cause is sufficiently just—indeed, as WMD spread, it is possible (at least in principle, although not necessarily in practice) that in some circumstances, even preemptive war might be justified. Moreover, no matter how accurate the weaponry and how hard we may try to avoid it, it is inevitable that there will be civilian casualties. If wars that will surely result in the killing of hundreds or thousands of innocent noncombatants cannot be morally prohibited if the stakes are high enough, then how can it be morally prohibited to inflict non-fatal and reversible pain on a few anything-but-innocent terrorists,

[25] See Oren Gross: "Most of us believe that most, if not all, government agents, when faced with a genuinely catastrophic case, are likely to resort to whatever means they can wield, including ... torture. ... *And most of us hope they will do so.*" Gross, "The Prohibition on Torture," 249, emphasis added.

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if that is the only way to save hundreds, thousands, or even hundreds of thousands of innocent lives?

Even so, before we can conclude that torture may sometimes be justified, we must first confront several practical arguments that challenge the "lesser evil" defense. First, it is often argued that torture does not work, for people will tell the torturers anything they want to hear. Although this argument has a certain surface plausibility, on closer scrutiny it is not persuasive: the historical evidence leaves no serious doubt that torture has often produced information that otherwise would not have been revealed, especially about the organization and location of members of resistance or insurgency groups. To be sure, in the overwhelming majority of such cases, the torturers had no just cause and therefore no moral right to such information, but that is another matter altogether.

Thus, leaving aside for the moment the issue of whether torture is ever justifiable, the strictly empirical issue of whether it "works" is not difficult to ascertain. There is little doubt, for example, that in the 1950s, the French torture of Algerian captives temporarily succeeded in destroying the underground revolutionary movement; similarly, there is evidence that in Ireland, British torture or coercion succeeded in gaining useful information.[26] More recently, there is evidence that in 2002, Sri Lanka tortured three terrorists into revealing the location of a bomb set to explode later that day,[27] and it is known that in "ticking-bomb" cases, Israel tortures—or, at least, inflicts physical and mental coercion upon—captured Palestinian militants, who have sometimes apparently revealed information that has prevented terrorist attacks against civilians.

Elsewhere as well, torture appears to be producing valuable information in the current war on terrorism. Dershowitz and others have cited cases in which Jordanian and Philippine torture resulted in the breaking up of terrorist plans and networks, including a plot to bring down a number of airplanes,[28] and both the Schlesinger and 9/11 Commission reports stated that interrogation of captured al Qaeda officials—widely known to include severe coercion and probably outright torture—has provided important information about that organization's structure and plans.[29]

[26] Heymann and Kayyem, *Protecting Liberty*, 165.

[27] Ibid., 166.

[28] Alan M. Dershowitz, *Why Terrorism Works: Understanding the Threat, Responding to the Challenge* (New Haven, CT: Yale University Press, 2002), 136–138.

[29] See Douglas Jehl, "Captured Terrorists Hint at New Plan, Officials Say," *New York Times*, 13 July 2004; Douglas Jehl and David Johnston, "CIA Expands Its Inquiry into Interrogation Tactics," *New York Times*, 29 August 2004; Bowden, "The Dark Art of Interrogation," especially 55–56. Although the Schlesinger Report, *Final Report of the Independent Panel to Review DOD Detention Operations*, reprinted in Danner, *Torture and Truth*, 329–399, does not say that the useful information was the result of torture; in fact, it is widely known that the interrogation methods of leading suspects includes severe coercion and waterboarding. According to widespread reports, almost no one can hold out against waterboarding; for example, Joshua Dratel—a severe critic of torture—reports that a CIA station agent told him that because everyone succumbs to torture, if he were captured, he would avoid pointless suffering and simply talk immediately. Greenberg, ed., *The Torture Debate*, 21–22.

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A second practical argument against torture is that in the long run, it backfires and ends by being self-defeating: it engenders implacable hatreds, hardening the terrorists in their hostility and creating new ones. The usual case cited is Algeria in the 1950s and 1960s, when despite French torture, the revolutionary movement was reconstituted and soon succeeded. "The use of torture may have won the battle of Algiers for the French, but it cost them Algeria."[30]

It is important, however, to notice the differences between the Algerian situation and the present one. First, the perpetuation of French colonialism in the face of the nationalist demand for liberation and independence was not a just cause, so of course, the French use of torture was not justified; there is no moral or practical dilemma if an unjust method is used to pursue an unjust cause. Secondly, it may be rhetorically effective to say that it was torture that caused the French to ultimately lose in Algeria, but it is not accurate; they resorted to torture precisely because they feared defeat if they did not—and it is hardly implausible that they indeed would have been defeated even sooner had it not been for the temporary success of torture in destroying the revolutionary movement. In other words, the French may well have lost in Algeria despite their use of torture, not because of it.

Even so, it cannot be denied that the use of torture has already had a variety of costs, including international costs. It is only too plausible that the American torture in Afghanistan and Iraq will engender new acts of terrorism—and not only in those countries, but elsewhere, including against the United States itself. Moreover, it is certainly possible that the international backlash against torture in the war on terrorism—especially torture that is clearly illegitimate by *any* defensible criteria, as in Afghanistan and Iraq—will lead some otherwise friendly countries to refuse to cooperate or to minimize their cooperation with American intelligence efforts.

Still, in the final analysis, if torture and coercion are confined—as they should be—to protecting large numbers of innocent human lives, then it is not necessarily convincing to argue that in the long run, the political costs will be too high. To begin with, long-run political costs are inherently difficult to predict, and might well be minimized if torture was seriously controlled and plausibly necessary to save many innocent lives. Beyond that, the immediate stakes may be so high that they preclude guesswork about long-run consequences. And in the limiting case of WMD terrorism, the classic rejoinder to the long-run consequences argument—in the long run we'll all be dead—is redundant: if we fail to prevent WMD terrorism, by whatever action it takes, in the *short* run we'll all be dead.

Perhaps the most troubling of the arguments against torture in extreme circumstances is the innocence problem. Undoubtedly, there cannot be complete certainty that the person being tortured really has useful knowledge of an impending terrorist attack, but we do know that almost inevitably, errors will be

[30] Donald P. Gregg, "Fight Fire With Compassion," *New York Times*, 10 June 2004.

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made—indeed have already been made in Afghanistan, Guantanamo, and Iraq, where a number of investigative reports have concluded that many innocent civilians have been abused by American forces.[31]

Given the stakes, however, in this writer's reluctant judgment, the innocence problem, tragic though it is, cannot be regarded as a decisive argument for a categorical prohibition of torture—after all, the criminal justice system also suffers from less than 100 percent reliability, but we do not abolish prisons on that account, even though we know that many innocents inevitably will pay a very high cost. Moreover, painful as it is to contemplate, it is hard to avoid the conclusion suggested by Alan Dershowitz and Richard Posner: "The dogma that it is better for ten guilty people to go free than for one innocent person to be convicted may not hold when the guilty ten are international terrorists who, moreover, are seeking and may succeed in obtaining weapons of mass destruction."[32]

What does follow, however, is that we must take the innocence problem very seriously, and take whatever steps we can to minimize it. Indeed, it is the very possibility of error that strengthens the argument for serious institutional controls over torture, to ensure that the evidence requiring it is very strong, or that it is stopped if it becomes increasingly likely that the victim either is innocent or has no further information that we are entitled to have.

Should Torture Be Regulated and Controlled?

I have argued that torture (or coercion) in the war on terrorism is both inevitable, and in some circumstances, justifiable as a lesser evil than unchecked terrorism. If that is persuasive, it would seem to follow that torture should be minimized, regulated, and controlled by subjecting it to the rule of law. On the other hand, there are powerful arguments against seeking to do so, so we must first address these arguments.

The Price for Ending Hypocrisy Is Too High

Some skeptics about the need for or desirability of institutionalizing controls over torture concede that torture in the war on terrorism is inevitable—and perhaps even in some circumstances, a lesser evil than otherwise-unsuccessful efforts to prevent the mass murder of innocents—and that therefore it is true that our professed absolute rejection of torture is hypocritical. Even so, their argument is that total consistency is not truly necessary; occasional hypocrisy

[31] For brief discussions of the innocence problem, see Elaine Scarry, "Five Errors in the Reasoning of Alan Dershowitz" in Levinson, ed., *Torture: A Collection*, 281–290; and Ross, "A History of Torture," 9–10.

[32] Richard A. Posner, "Torture, Terrorism, and Interrogation" in Levinson, ed., *Torture: A Collection*, 295.

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may be a tolerable price for a political order to pay, especially if the alternative price—abandoning long-held norms prohibiting torture—is too high.

On the other hand, hypocrisy also may have serious costs. As McCarthy has argued, "By imposing an absolute ban on something we know is occurring, we promote disrespect for the law in general."[33] In any case, the ending of hypocrisy is not the main argument for institutionalizing controls over torture as well as less-intense kinds of coercion. Rather, it is that the price we pay for the current situation—uncontrolled, unregulated, unaccountable, and typically unpunished torture that cannot be justified by a lesser-evil argument—is higher than the undoubted price we would pay by abandoning the fiction that torture can *never* be justified by a lesser-evil argument.

The Legitimization Problem

A second argument against seeking to control torture is that the effort to do so will "legitimize" torture and thus, presumably, make it even more prevalent. Some writers have drawn an analogy between torture and the development of the absolute prohibitions against slavery or genocide. Not so long ago, they argue, slavery was also thought to be "inevitable," and it would appear that genocide is still inevitable, yet we do not say that because slavery and genocide are inevitable, we should try to minimize and regulate them.

This argument is surely right about slavery and genocide, but it ignores the crucial distinction between those unconditional evils and the evil of torture: slavery and genocide are *never* a necessary (but evil) means to a desirable end. Thus, there can be no consequentialist argument to be made on behalf of slavery or genocide. Put differently, because there is no conceivable end that would justify slavery or genocide, these cannot be "lesser evils" to anything. Tragically, in the world in which we now live, we cannot say that about torture.

In any case, to say that a formerly banned practice has become "legitimized" can be understood in two senses. First, it may be understood as an empirical statement: as a matter of fact, like it or not, the practice has become widely accepted. Second, it may be understood normatively, meaning that what was previously thought to be categorically wrong in a moral sense is no longer so regarded.

If this deconstruction of the term "legitimize" is correct, then, the argument against controls may be becoming moot. Understood in its empirical sense, torture is well on its way to be becoming "legitimized" in the United States, for scarcely a week goes by without new revelations of American torture—directly, by American soldiers or CIA personnel and indirectly, through "rendering" suspects to foreign collaborators. To be sure, recently, there has been growing congressional concern over the torture issue, but there is reason to be skeptical about whether this concern will be sustained and result

[33] Greenberg, ed., *The Torture Debate*, 108.

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in real controls over torture. Beyond a handful of courts martial prosecutions of soldiers near the bottom of the chain of command, as of early 2006, very little had been done by the armed forces, the administration, or Congress to seriously investigate, let alone punish, those guilty of ordering, condoning, or acquiescing in the American torture or outright killing of alleged terrorist suspects in Afghanistan, Iraq, or Guantanamo.[34]

Moreover, it is evident that most of the cases of torture are not in response to "ticking-bomb" situations—even of conventional bombs, let alone WMD; nor has the practice been limited to torture of high-level officials of terrorist organizations, who presumably know of plans for mass-murder terrorism. Indeed, according to newspaper reports and several international non-governmental organization investigations, some 70–90 percent of Iraqis rounded up by American soldiers were neither terrorists nor insurgents.[35] Consequently, it appears that most of the actual cases of torture or coercion cannot be defended as necessary in the war on terrorism; they remain greater evils, not lesser ones. Under these circumstances, the argument here is that on balance, the need for effective controls over torture outweighs the not-unreasonable concern that controls will succeed only in legitimizing and perhaps even increasing torture.

Judicial Controls Are Often Ineffective

A similar set of arguments point to the well-known problems of judicial control of state authorities. For example, a number of critics of Dershowitz's call for advance judicial authorization—"torture warrants"—point out that the existing criminal warrant system is frequently abused by the police, who may either gather evidence illegally or plant evidence even after getting warrants.

Indeed, for that matter, we cannot assume that the judges themselves are immune from politics, ideology, or simple error—Luban argues that "politicians pick judges, and if the politicians accept torture, the judges will as well," and tellingly observes that Jay S. Bybee (of the infamous Bybee memorandum) is now a federal judge.[36] In the same vein, other critics have noted that judges are not the voice of pure law or reason, but rather actual people operating within a particular (and fallible) institutional structure. Moreover, where will they come from? Will they be elected, or chosen—and if so, by whom? For these and other reasons, it cannot be simply assumed that judges will be either independent or wise.

These are all legitimate and cogent observations and criticisms, but in my judgment, they are not decisive. Of course, the judicial system is flawed in a

[34] For an impressive marshalling of the evidence, see Roth, "Justifying Torture," 184–201.

[35] Even the semi-official Schlesinger Report conceded that American soldiers had rounded up "any and all suspicious-looking persons—all too often including women and children," and that "some individuals seized the opportunity provided by this environment to give vent to latent sadistic urges." Reprinted in Danner, *Torture and Truth*, 344.

[36] Greenberg, ed., *The Torture Debate*, 51.

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variety of ways, and undoubtedly any efforts to control and regulate the use of torture by means of that system would be difficult and would sometimes fail. But compared to what? Compared to the current system, in which torture is largely uncontrolled, especially when ordered or tolerated by officials at the top of the system, who are not held accountable for their behavior? Is justice more likely to emerge from a system of no accountability, or one that demands accountability and the adherence to the rule of law, however short of perfection that system falls?

In any event, it should not be beyond our capacity to improve the existing system, and to devise effective principles, procedures, and institutions to control torture, in order to ensure that it is resorted to only when an overwhelming emergency leaves no other rational or, indeed, morally defensible choice. A good place to begin is by ending the current practice of "rendition"—turning over suspects to allied governments that have no compunction about torture. In this case, for several reasons, categorical prohibition is appropriate. First, on its face, rendition is particularly sleazy, designed as it is to evade U.S. legal prohibitions against torture. Moreover, it is widely *seen* to be sleazy, and it has been so widely exposed that it has defeated the purpose of giving the U.S. government "plausible deniability" that it uses torture in the war on terrorism; indeed, in the eyes of much of the world, including the West, hardly any accusations against the American government—probably even those that are false—are any longer plausibly deniable.

Further, although torture in general entails the risk that false confessions will result, rendition is especially likely to do so, for governments who are anxious to demonstrate their value to the United States have much less incentive to be skeptical and to verify all such "intelligence."[37] Finally, rendition is obviously inconsistent with the need to develop a system of executive, legislative, and judicial controls over torture and coercion.

An institutionalized process for controlling torture would begin with some kind of system of advance authorization—something like Dershowitz's "torture warrants," perhaps, but one that would be less likely to suffer from the problems (police evasions, dishonesty in gathering evidence, and other abuses) that sometimes occur in the existing judicial warrant system. In any case, judicial control of coercion and torture should not be limited to an authorization

[37] For example, there have been a number of reports that the Bush administration based its claim that the Saddam Hussein government in Iraq was linked to al Qaeda on a "confession" made by a high-level operative captured by American forces and turned over to Egypt for interrogation under torture, a statement later recanted when the al Qaeda leader was no longer in Egyptian custody. Douglas Jehl, "Qaeda-Iraq Link U.S. Cited is Tied to Coercion Claim," *New York Times*, 9 December 2005. See also a television interview of Craig Murray, the former British Ambassador to Uzbekistan, another U.S. ally that cooperates with American rendition policy. Murray states that many "confessions" obtained under particularly horrible forms of torture by the Uzbekistan government have been demonstrably false, producing dangerous misinformation in the war on terrorism. (Murray's testimony is in *Torture*, a British documentary televised on the Sundance channel, 12 December 2005.)

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process, but must also encompass post-facto judicial review, sanctions when appropriate, and judicial remedies for those wrongly tortured.

How, precisely, would a system of judicial control operate? Andrew C. McCarthy, a former Assistant U.S. District Attorney and currently a law professor, has suggested the creation of a single federal "national security court." Such a court—perhaps similar to the existing special federal court that decides whether U.S. intelligence agencies can engage in domestic spying—would allow the judges to develop expertise in matters of national security.[38] Any violations of the legal norms, rules, and procedures—at any level, in principle up to and including the Commander in Chief—must be treated as impeachable offenses or outright crimes, and if serious enough, punishable by jail terms.

Moreover, controlling coercion and torture in the war on terrorism should be the responsibility not only of the judiciary, for Congress could and should also play a much greater role, not only through legislation, but also by more vigorous use of its investigative and oversight powers, to ensure that the executive branch is complying with the law.

Other than these general suggestions, it is beyond the scope of this paper—and certainly beyond this author's competence—to provide a detailed prescription for how the current system can be improved.[39] My premise is that a recognition of the problem, together with a serious will to deal with the torture issue in a manner that both protects national security and is morally defensible, could find institutional expression.

Even so, in the final analysis, it cannot be denied that any system of institutionalized controls over torture must rely to a certain extent on trust that the authorities—especially at the top of the political system—will not seek to evade and bypass them. In this context, it is instructive to consider the McCain Amendment, now the law of the land, and President Bush's reaction to it. In signing McCain—which purports to categorically prohibit not merely torture but also the "cruel, inhuman, or degrading treatment" of any terrorists captured by the United States—Bush issued a statement in which he reserved the right to interpret it according to his own judgment of the constitutional authority of the president, especially in his capacity as Commander in Chief of the armed forces.

In view of the administration's overall record, then, there is every reason to suspect that in some circumstances, it will seek to avoid the McCain prohibi-

[38] Greenberg, ed., *The Torture Debate*, 109–110. To be sure, it is ominous that the Bush administration chose to bypass this court in certain circumstances, but its actions have generated a number of lawsuits and a considerable uproar in public opinion and in Congress. Perhaps, then, the existence of the special court may yet prove to be an effective constraint on executive overreaching. Once again, though: whatever the outcome, it would hardly follow that a system of no judicial authorization and review would be better.

[39] However, for a number of detailed suggestions on how all three branches of the government can improve the institutions and procedures for controlling "highly coercive interrogation," see Heymann and Kayyem, *Protecting Liberty*, especially 35–39.

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tions. Moreover, even McCain himself has conceded that his legislation would not (should not?) apply to a "million to one" extreme ticking-bomb situation, in which the "the president will authorize whatever techniques he thinks will work," but should take responsibility for doing so.[40]

In short, it is not yet knowable whether the McCain amendment, the first serious effort to assert legislative control over the executive branch on how the war on terrorism may be fought, will be effective or indeed *should* be effective in extreme circumstances—even, apparently, in the eyes of its architect. But it does not follow that this early effort to institutionalize controls over torture demonstrates the futility of trying to do so. For one thing, the McCain amendment could well prove to be a significant constraint when it should be, if not on Bush, then perhaps on future presidents, as well as on the professionals in the CIA, the Pentagon, and the armed forces.

Beyond that, once again we must ask: compared to what? If a genuine, total, and unconditional ban on coercion or torture in the war on terrorism is neither practical nor wise, serves neither the requirements of national security nor of morally acceptable consequences, then it is hard to see why the present, largely uncontrolled system should be regarded as more trustworthy.

The Criteria Governing Torture

What moral criteria or principles should guide a system of judicial controls? Just-war theory provides the appropriate guidelines: just cause, last resort, and proportionality.

Just Cause

As in decisions to go to war, an unambiguously just cause is a necessary precondition of resorting to either severe coercion or outright torture—otherwise, of course, torture could never meet the lesser-evil criterion. Because of the terrible nature of this method, just cause should be interpreted particularly narrowly to exclude any purpose other than clear self-defense against terrorist attacks on civilian populations.

To be sure, as already noted, a common objection to making just cause a criterion for justifying torture is that it may be abused by untrustworthy governments. For example, Levinson asks: "Why in the world would we necessarily trust a highly politicized state elite, with its own potential political interests in creating a perception of danger," to decide when a genuine catastrophe exists?[41] A legitimate concern, certainly—but no different from allowing states to go to war on the basis of "self-defense," or, for that matter, on humanitarian

[40] Associated Press, "McCain Makes Exception on Torture," *Buffalo News*, 20 December 2005; David E. Sanger and Eric Schmitt, "Bush Says He's Confident that He and McCain Will Reach Agreement on Interrogation Policy," *New York Times*, 13 December 2005.

[41] Sanford Levinson, "Contemplating Torture" in Levinson, ed., *Torture: A Collection*, 33.

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grounds. Both self-defense and humanitarian intervention can be abused (as some observers would argue was the case in Iraq), providing pretexts rather than convincing justifications for the use of force. Nonetheless, we do not throw out the principles. In short, as in the broader principle of self-defense, an argument justifying torture in catastrophic circumstances is just that—an argument, and one that may or may not be persuasive, or even honest. There is no way around the problem, but the alternative—no limiting criteria—is worse.

That said, it is important to make a number of distinctions, even within the framework of self-defense. There are at least three possible scenarios, unfortunately all, to one degree or another, realistic ones, in which the issue of torture is certain to be—and must be—considered: the capture of terrorists at the field level who are about to engage in WMD attacks on cities, the capture of terrorists about to engage in non-WMD attacks on cities, and the capture of terrorist leaders who are planning or who know about the plans for future major terrorist attacks.

Let us begin with consideration of the easiest case: preventing the destruction of entire cities. Assume, in the usual fashion, that the authorities have captured a member of a terrorist cell and that the evidence is very strong that he has information that could prevent an imminent WMD attack. As discussed earlier, preventing such an attack constitutes a supreme emergency (in Walzer's terms) or "an ultimate catastrophe," in the terminology of several contributors to the Levinson book. To repeat an earlier point: if early in World War II, a genuine supreme emergency (avoiding defeat at the hands of Nazi Germany) allowed Britain to legitimately override the principle of noncombatant immunity by deliberately killing (through bombing of cities) tens of thousands of German civilians—some of them, undoubtedly, strongly opposed to Hitler—then it is hard to see why torture of a few non-innocent terrorists in a different but genuine supreme emergency should be regarded as beyond the pale.

The case for torture to prevent more-limited attacks is obviously less overwhelming. Even so, non-WMD attacks can also kill thousands of innocents, as on September 11, or perhaps "merely" hundreds, as in the Madrid railroad bombing. Although short of constituting supreme emergencies, such conventional attacks may well be sufficiently catastrophic to justify torture if there is no other way to avert them. Suppose, for example, that on 10 September 2001, the authorities, learning of an impending massive attack in the United States but not knowing where or by what means, had captured Mohammed Atta or one of the other leaders of the attack on the World Trade Center, and all other efforts to gain the necessary information had failed? Who would have wished to argue that torture would have been illegitimate even if it had succeeded in preventing the attack?

To be sure, it is certainly the case that this is a troubling line of thought. As one internal critic of U.S. government torture asked: "How many lives [have] to be saved to justify torture? Thousands? Hundreds? Where do you draw the

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line?"[42] A cogent and disturbing question indeed, and one that is impossible to answer in the abstract. Yet, in actual and specific cases, such as September 11, the answer may be reasonably apparent.

The ticking-bomb cases aside, the third scenario in which torture or at least "highly coercive interrogation" must be considered is the capture of high-level al Qaeda leaders (already a reality, as we now know)—or, perhaps eventually, Iraqi terrorist leaders, like Abu Masab al-Zarqawi—who, after some period of regular interrogation, are refusing to talk about their organization or plans for future attacks. Because large numbers of innocent lives are genuinely at stake in such cases, as well as in obvious ticking-bomb situations, it is hard to see why torture (when both normal interrogation and coercion short of torture had failed) should be ruled out. Indeed, such cases might also constitute ticking-bomb situations—for all we know, major attacks might well be imminent.

Put differently, because the key to winning the war on terror is accurate intelligence, it is not evident that there is a compelling national security *or* moral distinction between using methods genuinely necessary to extract tactical intelligence to prevent imminent attacks and using those necessary to extract strategic intelligence (information about the organization, finances, membership, and location of terrorist groups) in order to prevent future attacks.

Last Resort

As has been already suggested, it is morally obvious that torture can be legitimately resorted to only in order to extract information that is crucial to save innocent lives, and then only when other methods of gaining the necessary information have been tried and failed: that is, normal methods of interrogation or even various forms of physical or psychological coercion, short of outright torture.

Moreover, neither coercion nor torture can ever be resorted to—and this *is* a categorical prohibition, one for which it is impossible to imagine any exceptions—for any purpose other than an urgent need to avert a catastrophe: not to humiliate, not to punish, not to take revenge. It is now evident that the U.S. armed forces violated this prohibition in Afghanistan and, especially, Iraq. Under a system of serious controls, any torture that was not a last resort and was for illegitimate purposes would be severely punished. And that would include anyone in the chain of command—right to the top—who ordered, authorized, or merely acquiesced in torture for such purposes.

Proportionality, or the Sliding Scale

As discussed earlier, it is a well-established principle in Western morality—or, more accurately, one to which we give lip service—that "the end doesn't justify

[42] Jane Mayer, "Annals of the Pentagon: The Memo," *New Yorker*, 27 February 2006, quoting Alberto Mora, the former general counsel of the U.S. Navy.

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the means." Given the current realities, however, it would appear that we can no longer afford to insist that the moral judgments we make about means (*jus in bello*) be entirely separate from the judgments we make about ends (*jus ad bellum*).

Philosophers generally agree that moral constraints on behavior cannot be impossible of realization—that is, so demanding that they are antithetical to human nature itself. In that sense, then, it would appear that it is beyond human nature to truly live by an unconditional principle that a just end never justifies unjust means, even if the end is overwhelmingly just (the prevention of mass murder) and the means (torture) are genuinely imperative to achieve it. That is, in certain circumstances the end *does* justify the means.

The argument can be put even more strongly. It is not only beyond human nature but morally unpersuasive on the merits to have an absolute ban on torture that is necessary to prevent human catastrophes. It would be both irrational, in terms of national security, and morally incoherent to place a higher value on not inflicting temporary pain on one or several terrorists than on doing what is necessary to protect both national security and innocent human lives—in the most extreme case, perhaps hundreds of thousands of innocent lives.

The guiding principle concerning torture, then, must be proportionality, or the sliding scale, in which all actions are judged by their consequences for both justice and national security. The greater the evil to be averted, the fewer the restrictions on the means that are required to do so. And if the fate of an entire city, or indeed *many* cities, hangs in the balance—and some day that may well be the case—then there can be no limits at all. When what is at stake is, for all practical purposes, an infinite evil, the guiding principle of the authorities seeking to prevent it will be, must be, and should be: whatever it takes.[43]

Conclusion

If we are to succeed in the war against terrorism, we surely must do much more than defend ourselves against terrorist attacks. The broader task is to do whatever can be reasonably and legitimately done to address the causes of terrorism, as well as the motivations of terrorists to target the United States. In my view, such measures must include great changes in American foreign policy—a far more balanced policy in the Israeli–Palestinian conflict, for example, as well as a general policy of military noninterventionism, except in those few cases in which truly vital national interests are at stake. Meanwhile, though, we need to prevent attacks on American cities.

In attempting to do so, we confront a terrible dilemma. On the one hand, of course torture violates a central moral command of any civilized society;

[43] For a similar argument, see Posner, "Torture, Terrorism, and Interrogation," 293.

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as a number of recent writers have emphasized—as if there were contrary views that needed refuting—torture is evil, antithetical to the values for which America stands, and destructive of the souls of the torturer as well as the tortured. Similarly, it has often been said that the war on terrorism is a war to preserve American values, so that if we resort to torture "the terrorists will have won," and the like.

On the other hand, the rhetoric does not do justice to the complexity of the problem and it will not do to simply dwell on the undoubted horrors of torture without consideration of the even greater horrors entailed in the mass murder of innocents. The crisis is unprecedented, the stakes are catastrophically high, and values are in conflict. Self-defense and the protection of innocent lives are also important values, and the terrorists will have "won" even more decisively if they succeed in destroying cities, the national economy, and possibly, the entire fabric of liberal democracy. Indeed, it should be regarded as instructive that it is not merely the United States but also some of the most civilized European liberal democracies that have evidently found it necessary to sometimes effectively condone or at least acquiesce in the torture of terrorist suspects.[44]

Put differently, so long as the threat of large-scale terrorist attacks against innocents is taken seriously, as it must be, it is neither practicable nor morally persuasive to absolutely prohibit the physical coercion or even outright torture of captured terrorist plotters—undoubtedly evils, but lesser evils than preventable mass murder. In any case, although the torture issue is still debatable today, assuredly the next major attack on the United States—or perhaps Europe—will make it moot. At that point, the only room for practical choice will be between controlled and uncontrolled torture—if we are lucky. Far better, then, to avoid easy rhetoric and think through the issue while we still have the luxury of doing so.

As I have argued, there are three general positions on the problem of torture in the war on terrorism. The first we can call "absolute prohibition": even in the present circumstances, we must retain and enforce a categorical prohibition against torture. The second we can label (perhaps not too unfairly) "absolute prohibition, except when absolutely necessary": retain the norm and the laws that torture is categorically prohibited, but expect that the authorities will disregard the law—and *rightfully* disregard the law—if torture is the only means to prevent catastrophic terrorist attacks. The third is "legalize in order to control," in which the fiction that torture is categorically prohibited is abandoned so that we may create laws, procedures, and institutions to ensure

[44] Kenneth Roth of Human Rights Watch points out that a number of European governments, including those of Sweden, Germany, Austria, the Netherlands, and the United Kingdom "seem to be toying with emulation" of the United States by becoming "complicit in torture"—for example, by sending terrorist suspects to countries known to torture or, in the case of Britain, refusing "to rule out information extracted from torture in court proceedings." Roth, "Justifying Torture," 199–200.

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that torture is resorted to only when the evidence—presented *before* the fact—strongly indicates that coercion, and perhaps even torture, is indeed the necessary last resort to prevent mass-murder terrorism.

All of the choices have substantial defects. As I have argued, a categorical prohibition of torture today fails all the important tests: that of national security, that of moral consequences, and (because it has no chance of being observed under certain circumstances) that of practicality, a necessity in any meaningful system of moral constraint. For these reasons, many moral and legal philosophers, as well as political leaders (like John McCain), explicitly or in effect choose the second option: ban coercion but allow for exceptions, after the fact. In essence, this position concedes that in extreme circumstances, torture may be unavoidable, but nonetheless argues that our society would be better off if we continued to act *as if* torture were categorically prohibited. However, this choice also has major defects. First of all, of course, it is clearly hypocritical. As argued earlier, although one can concede that civilized and stable societies must often live with useful hypocrisies, in this case, the price may be too high. Aside from encouraging general cynicism about the rule of law, more particularly we are likely to forfeit our ability to control torture if we do not explicitly recognize it and treat it as a necessary evil under some circumstances.

Put differently, the second option, a compromise between absolute prohibition and control through partial legalization, reflects an empirical judgment as much as or more than a moral norm, for it is premised on the assumption that the fiction of categorical prohibition will lead to less torture, especially less clearly illegitimate torture, than if torture (even in extreme circumstances) were to become "legitimized." However, the historical record demonstrates that when torture is formally banned in principle but unregulated in practice, it almost always becomes an instrument of governmental police thugs or outright sadists, not only when the end does not justify the means but also when the end itself—such as punishment, intimidation, revenge against political dissidents, or even the amusement of sadists—is unjust.

That the United States is not immune from that danger is already all too clear. Indeed, we could end up with the worst of all worlds: uncontrolled torture that violates every morally necessary constraint, undermines national security by turning the world against us, produces little or no useful information, and precipitates rather than diminishes terrorism. In Iraq, Afghanistan, and probably Guantanamo, the use of torture by American soldiers and intelligence personnel is, from all the evidence now available (and who can doubt that more will be forthcoming), widespread and, indeed, not confined to stopping terrorism. Yet, it appears unlikely that in the end much is going to be done about it, at least at the top of the chain of command. Nor is this new. A convenient amnesia about the Vietnam War has triumphed in the United States; American soldiers engaged in coercion, torture, murder, and other war crimes in Vietnam, and in most cases, little or nothing was done about that either.

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This history, past and present, demonstrates that we should not continue to leave the decision on whether to order, condone, or acquiesce in the torture of captured terrorists to unregulated and unaccountable political and military leaders who have already abundantly demonstrated that they are not to be trusted with this terrible power. For these reasons, there is a strong argument for developing laws, institutions, and procedures to authorize, monitor, and control torture, as well as, when necessary, to severely punish unauthorized and illegitimate torture.

To be sure (as I have already discussed), this course also has significant defects: judicial and institutional controls will not always work, imperial presidents may simply disregard the law, and an explicit acknowledgment of torture is likely to harm the image of the United States throughout the world. On the other hand, we have already suffered enormous damage as a consequence of our resort to uncontrolled and unaccountable torture, so it is not unreasonable to expect that an acknowledgment of the problem, accompanied by an honest and sustained effort to fix it as best we can, would make things better. Anyway, the operative question remains: compared to what? Because torture cannot, will not, and, in some catastrophically bad circumstances, should not be banned, on balance a system of controls would seem to best serve this country's national interests as well as have acceptable—or, perhaps better said, least evil—moral consequences.

If this conclusion is accepted, the task becomes to institute controls that are as powerful as we can devise, in order to ensure that torture is resorted to only when there is no other rational or morally defensible choice. We must devise a judicial system that meets three criteria: it must be independent of the government, the armed forces, and the intelligence services; it must be capable of continuous and sustained authorization, observation, and control of torture; and it must have the authority to impose severe criminal sanctions against anyone—no matter at what level of government—who authorizes, engages in, or acquiesces in illegitimate torture. As indicated above, several measures that could meet these criteria have already been proposed, and assuredly more would be forthcoming once a decision in principle was made to move in this direction.

I have argued that there are no good choices in the war on terrorism, only tragic ones. It cannot be denied that any legitimization of torture is a morally painful and historically dangerous step. In some circumstances, though, our only real choice, in terms of both national security and moral consequences, will be between controlled and uncontrolled torture. We gain nothing by pretending differently. In the struggle against deadly terrorism, some of world's most civilized democracies are themselves unwilling to shrink from doing what they think is necessary. Such are the times in which we live.

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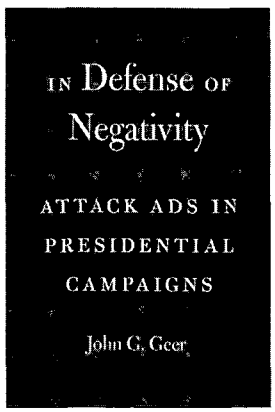

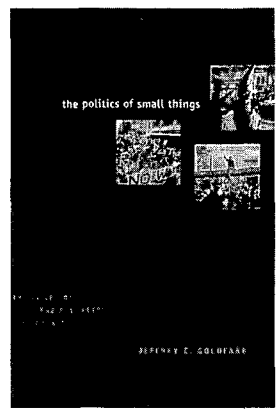

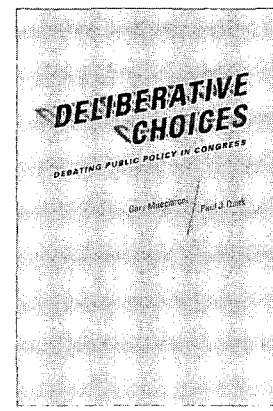

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President Bush and Social Policy: The Strange Case of the Medicare Prescription Drug Benefit

DOUGLAS JAENICKE
ALEX WADDAN

At the high-profile signing ceremony for the Medicare Prescription Drug, Improvement and Modernization Act (MMA) of 2003, President George W. Bush declared: "You are here to witness the greatest advance in health coverage for America's seniors since the founding of Medicare."[1] Although Democrats had originally proposed a new prescription drug benefit for Medicare, the MMA was the product of unified Republican government, with a large majority of Republicans voting for the legislation and a large majority of Democrats opposing it. Not merely creating a new prescription drug benefit for elderly Americans, the double-barrelled MMA also contained Republican-initiated changes that challenged the foundations of Medicare even while creating an expensive new entitlement that was anathema to many Republicans.

Passage of the MMA does not fit comfortably within existing ...ng cal expectations. Although one would expect a Republican presider...uts, the advantage of unified Republican government to enact mas...ment one would not identify the creation of an expensive new Medic...xt that with a politics of conservative "articulation,"[2] especially in a...iption Drug, .../hitehouse.gov/

[1] George W. Bush, "Remarks by the President at Signing of the ...f Leadership" in Improvement and Modernization Act of 2003," 8 December 2003, a... Quarterly Press, new/releases/2004/120031208-2, 2 July 2004.

[2] Stephen Skowronek, "The Setting: Change and Continu...r in the UK, where he Michael Nelson, ed., *The Elections of 2000* (Washingto..., abortion politics, and ...oreign policy at the Uni- ...health policy as well as the

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should have favored welfare state retrenchment, not expansion.[3] The surprisingly partisan dimension of the politics of the MMA reflected its conservative restructuring of Medicare, and health care more generally, through stealth-like "policy layering."[4] The Republicans' policy layering threatens Medicare as social insurance—its reliance upon both a broad risk pool and also general tax revenues as a primary source of funding. However, a conservative desire to restructure Medicare cannot explain the creation of a new entitlement. Rather, electoral pragmatism helps explain why Republicans supported this welfare state expansion just as the conservative restructuring explains the Democrats' opposition.

Republican passage of the MMA confirms Kenneth Finegold and Theda Skocpol's insight that for reasons of electoral expediency, politicians sometimes are unable simply to reject a policy proposal that they dislike, and instead have to respond positively to such "threats."[5] However, electoral pragmatism provides only a partial explanation, inasmuch as it cannot account for Democratic opposition. The bipartisan[6] 2001 No Child Left Behind (NCLB) education law and a bipartisan prescription drug bill passed by the Senate in June of 2003 (see below) manifested that the Democrats' opposition to Republican bills was not simply a case of the Democrats electorally differentiating themselves from the Republicans. Carl Cannon has misleadingly characterized Democratic opposition to the 2003 MMA as nothing more than simple partisan posturing: "In the current climate, if Bush is in favor of something, Democratic leaders are automatically against it—even if it's one of their pet issues."[7] However, Cannon's mistaken interpretation ignores the earlier high levels of partisan conflict generated by the Republicans' and Democrats' different
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economic liberalism (in American usage), Democrats emphasize the necessary role of the national government in guaranteeing economic security for ordinary Americans.[8] The government-provided economic security of both Social Security and Medicare rests upon social insurance that entails spreading risk among a large population (or a broad risk pool) in order to reduce the financial risk to individuals; hence, from its inception, Medicare was intended to include the healthy as well as the sick, the wealthy as well as the poor.[9] On the other hand, economically conservative Republicans stress the role of markets and the advantages of market outcomes and therefore prefer private rather than public provision. With their market orientation, Republicans tend to treat health care as just another consumer good.[10] Focusing on health care and pensions, Jacob Hacker has characterized this division as one between liberals who prefer to socialize risk and conservatives who seek to privatize it.[11]

Following enactment of Medicare in 1965, there was a relatively stable consensus that "Medicare should be operated as a universal government program, that federal health insurance for the elderly should take the form, in essence, of a single payer health system."[12] However, according to Jonathan Oberlander, after 1994, the politics of Medicare shifted from the politics of "program management" or consensus on the fundamentals of Medicare to a new politics of "program transformation" that reopened and reproduced many of the fundamental policy and ideological conflicts that had been temporarily silenced during the earlier period of consensus.[13] Just as Republicans and conservative Southern Democrats had originally opposed social insurance for the health care of the elderly before 1965 and instead had preferred a means-tested benefit and also public subsidies of private insurance, so antigovernment Republicans, after 1994, have again questioned Medicare's principle of social insurance and instead have advocated a more individualistic market-oriented approach to providing health care for the elderly. With the demise of the previous Medicare consensus, the recent partisan conflict over a prescription drug benefit for Medicare manifested what Oberlander has termed "the new politics of Medicare."[14]

[8] Skocpol, *Boomerang*, 6.

[9] Jacob S. Hacker and Theodore R. Marmor, "Medicare Reform: Fact, Fiction and Foolishness," *Public Policy and Aging Report* 13 (December 2004): 2–4; Theodore R. Marmor and Jacob S. Hacker, "Medicare Reform and Social Insurance: The Clashes of 2003 and Their Potential Fallout," *Yale Journal of Health Policy, Law and Ethics* 5 (January 2005): 479–485; Theodore R. Marmor, Jerry L. Mashaw, and Philip L. Harvey, *America's Misunderstood Welfare State* (New York: Basic Books, 1990), 26–28; Jonathan Oberlander, *The Political Life of Medicare* (Chicago, IL: University of Chicago Press, 2003), 32–33; Bruce Vladek, "The Political Economy of Medicare," *Health Affairs* 18 (January–February 1999): 24–26.

[10] Jacob S. Hacker and Theda Skocpol, "The New Politics of U.S. Health Policy," *Journal of Health Politics, Policy and Law* 22 (April 1997): 317.

[11] Hacker, "Privatizing Risk," 243–260.

[12] Oberlander, *Political Life*, 157.

[13] Ibid., 157–160.

[14] Ibid., 157–196.

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Although the Republicans' pragmatic concession of a new Medicare benefit was not part of this "new politics of Medicare," their efforts at policy layering certainly were, because that layering undermined Medicare as social insurance.

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This "new politics of Medicare" was initially visible in the congressional Republicans' 1995 budget reconciliation bill, which confirmed that Medicare was a key target for economically conservative Republicans. That reconciliation bill would not only have reduced spending on the two main government health care programs, Medicare and Medicaid, but would also have transformed both. In addition to abolishing Medicaid as an entitlement by turning it into a block grant program to be run by the states, the Republicans sought to restructure Medicare by capping its spending and by introducing medical savings accounts (see below) and vouchers.[15] In 1995 and 1996, President Bill Clinton's veto thwarted the Republicans' proposed radical reform of Medicare. However, unified Republican government, for the first four months of Bush's presidency, until Senator Jim Jeffords's switch from Republican to Independent and again after the 2002 congressional elections, institutionally enabled the Bush administration and congressional Republicans to promote a conservative agenda.

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[15] Hacker and Skocpol, "New Politics," 324–326; Mark A. Peterson, "The Politics of Health Care Policy: Overreaching in an Age of Polarization" in Margaret Weir, ed., *The Social Divide* (Washington DC: Brookings Institution, 1998), 199.

[16] Skowronek, "The Setting," 21–24; Steven E. Schier, "George W. Bush's Presidential Project and Its Prospects," *The Forum* 1 (2003): Article 2, accessed at www.bepress.com/forum/vol1/iss4/art2, 21 November 2004.

[17] Gillian Peele, "Electoral Politics, Ideology and American Social Policy," *Social Policy and Administration* 39 (April 2005): 160.

[18] Barbara Sinclair, "Context, Strategy, and Chance: George W. Bush and the 107th Congress" in Colin Campbell and Bert A. Rockman, eds., *The George W. Bush Presidency* (Washington DC: CQ Press, 2004), 105–132.

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President Bush and Social Policy: The Strange Case of the Medicare Prescription Drug Benefit

DOUGLAS JAENICKE
ALEX WADDAN

At the high-profile signing ceremony for the Medicare Prescription Drug, Improvement and Modernization Act (MMA) of 2003, President George W. Bush declared: "You are here to witness the greatest advance in health coverage for America's seniors since the founding of Medicare."[1] Although Democrats had originally proposed a new prescription drug benefit for Medicare, the MMA was the product of unified Republican government, with a large majority of Republicans voting for the legislation and a large majority of Democrats opposing it. Not merely creating a new prescription drug benefit for elderly Americans, the double-barrelled MMA also contained Republican-initiated changes that challenged the foundations of Medicare even while creating an expensive new entitlement that was anathema to many Republicans.

Passage of the MMA does not fit comfortably within existing theoretical expectations. Although one would expect a Republican president enjoying the advantage of unified Republican government to enact massive tax cuts, one would not identify the creation of an expensive new Medicare entitlement with a politics of conservative "articulation,"[2] especially in a fiscal context that

[1] George W. Bush, "Remarks by the President at Signing of the Medicare Prescription Drug, Improvement and Modernization Act of 2003," 8 December 2003, accessed at www.whitehouse.gov/new/releases/2004/120031208-2, 2 July 2004.

[2] Stephen Skowronek, "The Setting: Change and Continuity in the Politics of Leadership" in Michael Nelson, ed., *The Elections of 2000* (Washington DC: Congressional Quarterly Press,

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should have favored welfare state retrenchment, not expansion.[3] The surprisingly partisan dimension of the politics of the MMA reflected its conservative restructuring of Medicare, and health care more generally, through stealth-like "policy layering."[4] The Republicans' policy layering threatens Medicare as social insurance—its reliance upon both a broad risk pool and also general tax revenues as a primary source of funding. However, a conservative desire to restructure Medicare cannot explain the creation of a new entitlement. Rather, electoral pragmatism helps explain why Republicans supported this welfare state expansion just as the conservative restructuring explains the Democrats' opposition.

Republican passage of the MMA confirms Kenneth Finegold and Theda Skocpol's insight that for reasons of electoral expediency, politicians sometimes are unable simply to reject a policy proposal that they dislike, and instead have to respond positively to such "threats."[5] However, electoral pragmatism provides only a partial explanation, inasmuch as it cannot account for Democratic opposition. The bipartisan[6] 2001 No Child Left Behind (NCLB) education law and a bipartisan prescription drug bill passed by the Senate in June of 2003 (see below) manifested that the Democrats' opposition to Republican bills was not simply a case of the Democrats electorally differentiating themselves from the Republicans. Carl Cannon has misleadingly characterized Democratic opposition to the 2003 MMA as nothing more than simple partisan posturing: "In the current climate, if Bush is in favor of something, Democratic leaders are automatically against it—even if it's one of their pet issues."[7] However, Cannon's mistaken interpretation ignores the earlier high levels of partisan conflict generated by the Republicans' and Democrats' different bills, the bipartisan Senate bill, the conservative policy layering of the MMA, and the implications of that policy layering for Medicare's status as social insurance.

The high partisan polarization generated by the parties' different proposals for a Medicare prescription drug benefit manifested that Medicare, like Social Security, is an ideological divider in American politics. As the party of

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hereafter CQ Press, 2001), 1–26; and Stephen Skowronek, *The Politics Presidents Make* (Boston, MA: Harvard University Press, 1997), 41–43.

[3] Paul Pierson, "Coping with Permanent Austerity" in Paul Pierson, ed., *The New Politics of the Welfare State* (Oxford, UK: Oxford University Press, 2001), 410–456.

[4] Jacob S. Hacker, "Privatizing Risk without Privatizing the Welfare State: The Hidden Politics of Social Policy Retrenchment in the United States," *American Political Science Review* 98 (May 2004): 243–260.

[5] Kenneth Finegold and Theda Skocpol, *State and Party in America's New Deal* (Madison: University of Wisconsin Press, 1995), 89; Theda Skocpol, *Boomerang: Health Care Reform and the Turn Against Government* (New York: W.W. Norton, 1997), 29–31.

[6] Charles O. Jones, *The Presidency in a Separated System* (Washington DC: Brookings Institution, 1994), 21–22.

[7] Carl M. Cannon, "State of Our Disunion," *National Journal*, 21 January 2006, 22.

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economic liberalism (in American usage), Democrats emphasize the necessary role of the national government in guaranteeing economic security for ordinary Americans.[8] The government-provided economic security of both Social Security and Medicare rests upon social insurance that entails spreading risk among a large population (or a broad risk pool) in order to reduce the financial risk to individuals; hence, from its inception, Medicare was intended to include the healthy as well as the sick, the wealthy as well as the poor.[9] On the other hand, economically conservative Republicans stress the role of markets and the advantages of market outcomes and therefore prefer private rather than public provision. With their market orientation, Republicans tend to treat health care as just another consumer good.[10] Focusing on health care and pensions, Jacob Hacker has characterized this division as one between liberals who prefer to socialize risk and conservatives who seek to privatize it.[11]

Following enactment of Medicare in 1965, there was a relatively stable consensus that "Medicare should be operated as a universal government program, that federal health insurance for the elderly should take the form, in essence, of a single payer health system."[12] However, according to Jonathan Oberlander, after 1994, the politics of Medicare shifted from the politics of "program management" or consensus on the fundamentals of Medicare to a new politics of "program transformation" that reopened and reproduced many of the fundamental policy and ideological conflicts that had been temporarily silenced during the earlier period of consensus.[13] Just as Republicans and conservative Southern Democrats had originally opposed social insurance for the health care of the elderly before 1965 and instead had preferred a means-tested benefit and also public subsidies of private insurance, so antigovernment Republicans, after 1994, have again questioned Medicare's principle of social insurance and instead have advocated a more individualistic market-oriented approach to providing health care for the elderly. With the demise of the previous Medicare consensus, the recent partisan conflict over a prescription drug benefit for Medicare manifested what Oberlander has termed "the new politics of Medicare."[14]

[8] Skocpol, *Boomerang*, 6.

[9] Jacob S. Hacker and Theodore R. Marmor, "Medicare Reform: Fact, Fiction and Foolishness," *Public Policy and Aging Report* 13 (December 2004): 2–4; Theodore R. Marmor and Jacob S. Hacker, "Medicare Reform and Social Insurance: The Clashes of 2003 and Their Potential Fallout," *Yale Journal of Health Policy, Law and Ethics* 5 (January 2005): 479–485; Theodore R. Marmor, Jerry L. Mashaw, and Philip L. Harvey, *America's Misunderstood Welfare State* (New York: Basic Books, 1990), 26–28; Jonathan Oberlander, *The Political Life of Medicare* (Chicago, IL: University of Chicago Press, 2003), 32–33; Bruce Vladek, "The Political Economy of Medicare," *Health Affairs* 18 (January–February 1999): 24–26.

[10] Jacob S. Hacker and Theda Skocpol, "The New Politics of U.S. Health Policy," *Journal of Health Politics, Policy and Law* 22 (April 1997): 317.

[11] Hacker, "Privatizing Risk," 243–260.

[12] Oberlander, *Political Life*, 157.

[13] Ibid., 157–160.

[14] Ibid., 157–196.

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Personal Responsibility and Work Opportunity Reconciliation Act, unified Republican government enacted a new Medicare entitlement, the largest single expansion in Medicare's history, not radical conservative social policy.

As manifested by the opposition of some antigovernment conservatives and the scepticism of others, the creation of a new Medicare entitlement was not a case of Bush articulating Reagan's conservative economic agenda. When Congress first considered a prescription drug benefit for Medicare, Senator Orin Hatch (R-UT) expressed conservative reservations: "It's all caught up in the fear that this is going to be a major entitlement, and it's going to break the bank."[19] Three years later, Representative Jeff Flake (R-AZ) concurred: "I didn't come here to expand government like that. It will be a middle class entitlement that will run away from us."[20] After passage of the House Republicans' version of a prescription drug benefit in June 2003, both House Speaker Denis Hastert and President Bush attempted to assuage conservative unease about the legislation. President Bush met with nineteen conservative Republicans and assured them that "there would be opportunities to strengthen the bill."[21] Similarly, acknowledging resistance from economically conservative Republicans who were "concerned that this is a government entitlement that will get out of control," Hastert reassured congressional Republicans: the House Republicans' bill "is a mix of government entitlement ... but it's also a commitment to the private sector that they will have a role, and cost containment will be part of that role."[22] Despite these efforts, some conservative Republicans continued to criticize it. For example, when the House considered the conference bill, Walter Jones (R-NC) explained his opposition: "I cannot in good conscience vote for a bill that I think will have no end to it. Republicans do not stand for growing government."[23] Justifying Republican uneasiness over creating a new entitlement to a defined benefit that constituted an open-ended budgetary commitment, the estimated ten-year cost of the new benefit rose rapidly. The President's signature had barely dried when the administration revised the estimated cost upwards from $400 to $534 billion[24] and a year later, to $724 billion.[25]

Even prior to the MMA, Medicare's escalating costs worried analysts sympathetic to its principles.[26] Hence, MMA's cost challenges the conventional

[19] Alan Greenblatt, "Drug Lobby on Medicare Bills," *Congressional Quarterly Weekly* (henceforth *CQW*), 1 May 1999, 1011.

[20] Mary Agnes Carey, "GOP Bets on Private Insurers," *CQW*, 29 June 2002, 1738.

[21] Rebecca Adams with Mary Agnes Carey, "Compromise Will Come Hard," *CQW*, 28 June 2003, 1611.

[22] David Nather and Rebecca Adams, "Medicare Rewrite," *CQW*, 5 July 2003, 1696.

[23] Mary Agnes Carey, "Medicare Deal Goes to Wire in Late-Night House Vote," *CQW*, 22 November 2003, 2882.

[24] Robert Pear and Edmund L. Andrews, "White House Says Congress Underestimated New Medicare Costs," *New York Times*, 2 February 2004.

[25] Robert Pear, "Bush Vows Veto of Any Cutback in Drug Benefit," *New York Times*, 12 February 2005.

[26] Edward Lawlor, *Redesigning the Medicare Contract: Politics, Markets and Agency* (Chicago, IL: University of Chicago Press, 2003); Daniel Shaviro, *Who Should Pay for Medicare?* (Chicago, IL: University of Chicago Press, 2004).

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wisdom, which assumes that contemporary fiscal austerity tends toward welfare state retrenchment, not expansion.[27] Globalization, an ageing population, popular hostility to high taxation, the shift of employment from manufacturing to services, and changing household structures have coalesced to put increasing strain on government's capacity to maintain existing social welfare provision, much less expand it.[28] Paul Pierson concludes: "... the welfare state now faces a context of essentially permanent austerity."[29] Alan Schick has argued that Bush's tax cutting "is actually a spending strategy. He wants revenue deprivation to force a truly fundamental change in the course of government."[30] Even when Bush's large tax cuts contributed to the return of large budget deficits, those deficits did not prevent the enactment of a prescription drug benefit for Medicare.

Furthermore, in contrast to the financing of the 1988 Medicare Catastrophic Coverage Act (MCCA), which reflected fiscal austerity, the MMA will be financed primarily from general federal tax revenues, not premiums paid by the elderly, and will increase the budget deficit. When Reagan's secretary for health and human services proposed a catastrophic hospitalization benefit for Medicare in 1988, the administration made its support conditional upon two budget rules: the new benefit must not add to the budget deficit and must not be financed from general revenues. As result, the MCCA was self-financing, with Medicare beneficiaries paying increased premiums.[31]

According to Hacker, although some authors such as Paul Pierson[32] have correctly emphasized the difficulties that conservative governments have encountered when they sought direct retrenchment of welfare state provision, such analysis suffers from a limited conceptualization of retrenchment or conservative reform of welfare. In Hacker's view, while Pierson focuses upon "authoritative changes in existing social welfare programs" accomplished through direct and unambiguous legislation, greater consideration needs to be given to "subterranean" change or stealth reform.[33]

[27] Pierson, "Coping with Permanent Austerity," 410–456; Leslie Pal and R. Kent Weaver, eds., *The Government Taketh Away: The Politics of Pain in the United States and Canada* (Washington DC: Georgetown University Press, 2003).

[28] Paul Pierson, "Introduction: Investigating the Welfare State at Century's End" in Pierson, ed., *New Politics*, 1–14; Pierson, "Coping with Permanent Austerity," 410–456; Herman Schwartz, "Round Up the Usual Suspects! Globalization, Domestic Politics, and Welfare State Change" in Pierson, ed., *New Politics*, 17–44.

[29] Pierson, "Coping with Permanent Austerity," 411.

[30] Alan Schick, "Bush's Budget Problem" in Fred I. Greenstein, ed., *The George W. Bush Presidency: An Early Assessment* (Baltimore, MD: Johns Hopkins University Press, 2003), 81.

[31] Oberlander, *Political Life*, 57, 61.

[32] Pierson, "Introduction," 1–14; Pierson, "Coping with Permanent Austerity," 410–456; Paul Pierson, *Dismantling the Welfare State? Reagan, Thatcher, and the Politics of Retrenchment* (New York: Cambridge University Press, 1994); Evelyne Huber and John D. Stephens, *Development and Crisis of the Welfare State* (Chicago, IL: University of Chicago Press, 2001); Evelyne Huber and John D. Stephens, "Welfare State and Production Regimes in the Era of Retrenchment" in Pierson, ed., *New Politics*, 107–145.

[33] Hacker, "Privatizing Risk," 245.

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Hacker outlines three strategies for stealth-like conservative reform of social policy. First, social protection against risk is reduced when existing programs do not keep up with changing circumstances. Although existing social protections are not explicitly revised or repealed, policy "drift" diminishes the protection they provide, inasmuch as "their ability to achieve the goals embodied in them has noticeably weakened."[34] Medicare had suffered such policy drift, because it covered prescription drugs for hospital patients but not for outpatients. When Medicare was legislated, most prescription drugs were administered in hospitals. Yet, reflecting developments in pharmacology and health care management, prescription drugs are increasingly taken by people who are not hospitalized. Simultaneously, as the cost of prescription drugs increased, so did premiums for optional Medigap insurance that covered the cost of prescription drugs. By the early 1990s, partially because many seniors had high out-of-pocket expenses for outpatient prescription drugs, the elderly were spending the same percentage of their income on medical care that they had pre-Medicare.[35]

Second, existing social policy also can be altered through "conversion," which is a "consequential" change that occurs "through decentralized *processes* of adjustment within existing policy arrangements."[36] For example, in the United States, the tax advantages that underpin the private welfare state grant considerable discretion to employers. Although the tax advantages remain, some employers have reduced or eliminated health insurance for their retirees.[37] Such "conversion" shifted more of the costs of prescription drugs onto the elderly.

Finally, policy layering can also move existing policy in a more conservative direction; although existing policy remains intact, new elements that undermine the old are added.[38] Hacker concludes: "These [drift, conversion, and layering] are strategies for change that are little studied and even less well understood. They are also strategies ... that critics of the welfare state—rebuffed in their direct assaults on social programs—have increasingly attempted to pursue, sometimes with considerable success."[39]

Yet, by enacting a new prescription drug benefit, albeit one with important gaps, the MMA contradicts the implications of Hacker's argument in an important respect: by "updating"[40] Medicare, the new benefit at least partially

[34] Ibid., 256.

[35] Ibid., 253.

[36] Jacob S. Hacker, "Review Article: Dismantling the Health Care State? Political Institutions, Public Policies and the Comparative Politics of Health Reform," *British Journal of Political Science* 34 (October 2004): 694 (original emphasis); see Hacker, "Privatizing Risk," 246–7.

[37] Henry J. Kaiser Family Foundation and Hewitt Associates, *Retiree Health Benefits Now and in the Future: Findings from the Kaiser/Hewitt 2003 Survey on Retiree Health Benefits* (Menlo Park, CA: Henry J. Kaiser Family Foundation, 2004); Lauren A. McCormack, Jon R. Gabel, Heidi Whitmore, Wayne L. Anderson, and Jeremy Pickering, "Trends in Retiree Health Benefits," *Health Affairs* 21 (November–December 2002): 169–176.

[38] Hacker, "Privatizing Risk," 248.

[39] Ibid., 244.

[40] Pierson, "Coping with Permanent Austerity," 426.

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reversed the previous policy drift that had reduced the capacity of Medicare to provide economic security for elderly Americans, and also responded to previous policy conversion, whereby employers had reduced or eliminated health insurance for their retirees. Apparently contradicting Hacker's claim that economic conservatives have opposed legislation that addressed the erosion of welfare by policy drift and conversion,[41] unified Republican government enacted this new benefit. Furthermore, although studies of the welfare state have explored why conservative governments that were ideologically committed to rolling back the welfare state have enjoyed only limited success in achieving retrenchment,[42] the MMA's enactment was a case of welfare state expansion by a conservative government.

The MMA's updating of Medicare was only partial, inasmuch as the benefit is far from comprehensive, despite the law's price tag. Under the legislation, an elderly American who spends $1,000 annually on prescription drugs would pay about $858 (an estimated $35 monthly premium, a $250 annual deductible, and a 25 percent co-payment), and the government would pay only $563. Furthermore, the benefit is subject to a gap in coverage (or "donut hole"); there is no government help once an elderly person's annual bill for prescription drugs exceeds $2,250 until total out-of-pocket costs for prescription drugs reach $3,600, that is, $5,100 of prescription drug expenses in total.[43] However, because three-quarters of Democratic senators voted in June for the bipartisan Senate bill, which contained similar financial limitations, those limitations cannot explain Democratic opposition to the final conference bill.

Finally, Evelyne Huber and John Stephens's comparative study of the development and crisis of the welfare state found that for the first three decades after the Second World War, "partisan politics was the single most important factor that shaped the development of welfare states ...." However, in the era of austerity that began about 1980, the partisan nature of governments was less consequential for welfare state development, because fiscal austerity obstructed left governments from pursuing welfare state expansion and popular support for the welfare state impeded conservative retrenchment. These constraints combined to reduce "the partisan incumbency effect on welfare state generosity."[44] Yet, the MMA was clearly a partisan creation. Ironically, although the passage of the MMA manifests the continuing partisan dimension of welfare state politics, unified Republican government produced this expansion of welfare state generosity that was opposed by congressional Democrats.

[41] Hacker, "Privatizing Risk," 245, 248, 252.

[42] Pierson, "Coping with Permanent Austerity," 410–456; Pierson, *Dismantling the Welfare State*; Huber and Stephens, *Development and Crisis*, 32, 305, 309.

[43] Jennifer O'Sullivan, Hinda Chaikind, Sibyl Tilson, Jennifer Boulanger, and Paulette Morgan, *CRS Report for Congress: Overview of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003* (Washington DC: Congressional Research Service, 2004), 2.

[44] Huber and Stephens, *Development and Crisis*, 1, 6.

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Electoral Pragmatism

A straightforward explanation of the 2003 MMA would emphasize electoral pragmatism in an era of intense partisan competition and narrow partisan majorities. For example, Bruce Reed, a senior domestic advisor to Clinton, commented: "As we begin an election year, the paint-by-numbers politics of this White House is wearing thin. The administration threw over conservatives last fall to get a prescription drug bill because elderly voters are crucial in Florida."[45] In 2000, those sixty-five and older constituted 22.8 percent of the voting age population in Florida[46] and 16.7 percent of the voting age population nationally.[47] Provision of a prescription drug benefit through Medicare was initially a Democratic issue that the party hoped to exploit electorally because, according to Byron Shafer and William Claggett, Democrats enjoy an advantage on economic and social insurance issues.[48] More-recent polling evidence confirms the continuing validity of their findings.[49]

Just as the second Reagan administration's proposal to create a new catastrophic hospital care benefit for Medicare had activated public opinion that favored expansion of Medicare benefits,[50] so too did President Clinton's 1999 State of the Union address. Putting the issue on the legislative agenda, Clinton proposed to use projected long-term budget surpluses to finance a prescription drug benefit for Medicare.[51] Faced with a Republican Congress and dogged by the Monica Lewinsky scandal, Clinton had no chance to legislate his proposal.[52] Even so, recognizing the electoral importance of being perceived as supporting a prescription drug benefit, congressional Republicans advanced their own proposal in order to have a vote on record: "As the speaker's staff readily admits, the ... floor vote is preventive medicine for House Republicans who are guarding a slight six-vote majority and see health car[illegible] emerging as an issue in the districts of vulnerable members."[53] Although s[illegible]

[45] Bruce Reed, "Bush's War against the Wonks: Why the President's Policies Are Falli[illegible]04/ *Washington Monthly*, March, 2004, accessed at www.washingtonmonthly.com/fe[illegible]s.gov/ 0403.reed.html, 30 March 2004.

[46] U.S. Census Bureau, "The 65 Years and Over Population: 2000," accessed at[illegible]rigin for prod/2001pubs/c2kbr01-10.pdf, 21 July 2004. July 2004.

[47] U.S. Census Bureau, "Table 1: Total Population by Age, Sex, Race and Hispa[illegible] *of Modern* the United States: 2000," accessed at www.census.gov/population/cen2000/phc-[illegible]

[48] Byron E. Shafer and William J. Claggett, *The Two Majorities: The*[illegible]eenstein, ed., *American Politics* (Baltimore, MD: Johns Hopkins University Press, 19[illegible]; John B. Judis 184–185.

[49] Gary C. Jacobson, "The Bush Presidency and the American F[illegible] *George W. Bush Presidency*, 210–213; Sinclair, "Context, Strategy[illegible]nitehouse.gov/WH/ and Ruy Teixeira, *The Emerging Democratic Majority* (New Yo[illegible]

[50] Oberlander, *Political Life*, 56. Campbell and Bert A.

[51] William J. Clinton, "1999 State of the Union Address," 200–225. New/html/19990119-2656.htm, 20 January 1999. 00, 1436.

[52] Paul J. Quirk and William Cunion, "Clinton's Dom[illegible] Rockman, eds., *The Clinton Legacy* (New York: Sey[illegible]

[53] Mary Agnes Carey, "GOP's Prescription Drug[illegible]

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Republicans were worried about creating an expensive new entitlement, for the majority, this worry was trumped by electoral exigency and softened by conservative restructuring of Medicare.

Electoral considerations were further in evidence during the 2000 presidential election campaign, when Medicare and, in particular, a prescription drug benefit for the elderly "emerged as a first-order issue."[54] Al Gore initially adopted the issue and criticized Bush for not having a clear plan. As the election approached, and with polls showing that this issue resonated with the public, Bush promised that he would introduce a drug benefit if elected[55] and declared it to be a "priority."[56]

Even so, in the evenly balanced 2000 presidential election, Gore won a narrow majority of elderly voters, who cast 14 percent of the votes, by 50 percent to 47 percent, but by much larger margins, he carried those voters who identified health care and prescription drugs as a critical issue. Seven percent of voters indicated that Medicare and prescription drugs were the most important issue, and another 8 percent thought that health care was. Both groups strongly favored Gore over Bush: the former by 60 percent to 38 percent and the latter by 64 percent to 33 percent.[57] A similar Democratic advantage had been visible in 1996.[58]

The partisan commitments made during a period of budget surpluses remained binding even as deficits once again replaced surpluses. This sharp change in the fiscal environment worried deficit hawks, but it was now too late to backtrack. Furthermore, even while divided government circumscribed the possibility of enacting a prescription drug benefit, partisan competition compelled Republicans to ratchet up their offer. Both congressional Republicans and President Bush not only increased the amount that they were willing to spend but also shifted from proposing a means-tested benefit for the low-income government to adopting the Democratic social insurance position that the federal government should subsidize prescription drugs for all the elderly who wanted it. For example, in 1999, congressional Republicans favored spending $61 billion over ten years in order to pay for a means-tested prescription drug benefit for the elderly. Yet, in 2002, the House Republicans' budget resolution overwhelmingly approved $310–320 billion over ten years to subsidize a prescription drug benefit for the elderly who wanted it, and Republican Senators voted $370 billion over ten years on the new benefit. A year later, unified Republican government agreed to the so-called tri-partisan bill that would have committed $400 billion over ten years on the new benefit.

[54] Oberlander, *Political*

[55] Marilyn Werber Serafini, "Drugs," *National Journal*, 23 September 2000, 2980–2981.

[56] Mary Agnes Carey, "Bush

[57] Exit Poll 2000, accessed at http:

s May Be Too Expensive," *National Journal*, 23

2000.

[58] Exit Poll 1996, accessed at http.

CQW, 9 September 2000, 2084.

N/2000/epolls/US/P000.html, 8 November

tl.exit.poll, 7 November 1996.

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Although divided government from 1999 to 2002 had allowed each party to "position take"[59] and blame the other for obstructing reform, unified Republican government after the 2002 elections underscored Republican responsibility.[60] Even though they were less enthusiastic about a major new entitlement than were Democrats, unified government put Republicans under new pressure to enact a prescription drug benefit, especially since a prescription drug benefit for Medicare was "one of the major preelection promises" of congressional Republicans in 2002.[61] Yet, despite the electoral pressure, the proposed new entitlement posed a political dilemma for Republicans, because it ran contrary to their ideology and their hostility toward entitlements.

Conservative Policy Layering

Whatever their thoughts about the cost of the proposed new benefit and the expediency of legislating the new benefit, Republicans agreed about the need to link it to a conservative restructuring of Medicare and health care more generally, for example, by introducing vouchers, by using private insurers to deliver the benefit, and by universalizing the availability of health security accounts (see below). Consequently, the 2003 MMA did more than simply provide an optional prescription drug benefit for the elderly. Illustrating that Republicans had not abandoned their project to restructure Medicare and health care more generally, the law contains several conservative aspects with the potential to restructure Medicare and also health insurance more generally. Passage of the MMA contradicted Schick's premature judgment that President Bush had not "fought" for a prescription drug benefit for Medicare, despite his professed support for such a benefit.[62] Bush's delay in pushing for enactment until unified Republican government had replaced divided government was pragmatic in policy terms, because he could not have achieved the same amount of conservative restructuring if he had had to compromise with a Democratic Senate.

Conservative aspects of the final law explain the opposition of congressional Democrats to it. Providing a clear case of conservative policy layering, Republicans used the law to begin to restructure Medicare along conservative lines. Hence, despite the creation of an expensive new Medicare entitlement, the new law is part of "the new politics of welfare," inasmuch as it seeks to transform Medicare's existing structure and philosophy.[63]

[59] David R. Mayhew, *Congress: The Electoral Connection* (New Haven, CT: Yale University Press, 1974), 61–73.

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[61] Carey, "Can GOP Make Good?" 3064–3065.

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In addition, the law encourages further incursion by private managed-care plans into Medicare. There had been previous efforts to encourage seniors to switch from FFS Medicare to managed-care plans, but these had had a limited impact, partially because government payments were too low to act as an incentive to managed-care companies to enter the Medicare market, even though they were already overpaid once the healthier mix of patients they enroll is taken into account.[65] To encourage the movement of the elderly out of FFS Medicare and into managed-care plans, the new legislation increased payments to private plans competing in the Medicare market. Decrying those increased payments, Edwin Park, Robert Greenstein, and Richard Kogan conclude: "The ideological goal of privatizing more of Medicare trumped the stated goal of using 'competition' to restrain the rate of growth in Medicare costs."[66] Of course, this attempt to induce the elderly to leave FFS Medicare for managed-care plans was much weaker than the Bush administration's original plan to restrict the new benefit to those who left FFS Medicare.[67]

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[67] Serafini, "Prescription for Defeat," 2612; Rebecca Adams, "Hill Quick to Tell White House Medicare Plan Needs Work," *CQW*, 1 February 2003, 255–257.

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Electoral Pragmatism

A straightforward explanation of the 2003 MMA would emphasize electoral pragmatism in an era of intense partisan competition and narrow partisan majorities. For example, Bruce Reed, a senior domestic advisor to Clinton, commented: "As we begin an election year, the paint-by-numbers politics of this White House is wearing thin. The administration threw over conservatives last fall to get a prescription drug bill because elderly voters are crucial in Florida."[45] In 2000, those sixty-five and older constituted 22.8 percent of the voting age population in Florida[46] and 16.7 percent of the voting age population nationally.[47] Provision of a prescription drug benefit through Medicare was initially a Democratic issue that the party hoped to exploit electorally because, according to Byron Shafer and William Claggett, Democrats enjoy an advantage on economic and social insurance issues.[48] More-recent polling evidence confirms the continuing validity of their findings.[49]

Just as the second Reagan administration's proposal to create a new catastrophic hospital care benefit for Medicare had activated public opinion that favored expansion of Medicare benefits,[50] so too did President Clinton's 1999 State of the Union address. Putting the issue on the legislative agenda, Clinton proposed to use projected long-term budget surpluses to finance a prescription drug benefit for Medicare.[51] Faced with a Republican Congress and dogged by the Monica Lewinsky scandal, Clinton had no chance to legislate his proposal.[52] Even so, recognizing the electoral importance of being perceived as supporting a prescription drug benefit, congressional Republicans advanced their own proposal in order to have a vote on record: "As the speaker's staff readily admits, the ... floor vote is preventive medicine for House Republicans who are guarding a slight six-vote majority and see health ca[re] emerging as an issue in the districts of vulnerable members."[53] Although s[o]

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[46] U.S. Census Bureau, "The 65 Years and Over Population: 2000," accessed at [www.census.gov/]prod/2001pubs/c2kbr01-10.pdf, 21 July 2004.

[47] U.S. Census Bureau, "Table 1: Total Population by Age, Sex, Race and Hispa[nic Origin for] the United States: 2000," accessed at www.census.gov/population/cen2000/phc-[t1/] July 2004.

[48] Byron E. Shafer and William J. Claggett, *The Two Majorities: The* [*Issue Context of Modern*] *American Politics* (Baltimore, MD: Johns Hopkins University Press, 19[95]); John B. Judis [and Ruy Teixeira, ed.,]

[49] Gary C. Jacobson, "The Bush Presidency and the American E[lectorate," in] *George W. Bush Presidency*, 210–213; Sinclair, "Context, Strategy [and] [www.whitehouse.gov/WH/]

[50] Oberlander, *Political Life*, 56.

[51] William J. Clinton, "1999 State of the Union Address," [in Campbell and Bert A.] New/html/19990119-2656.htm, 20 January 1999.

[52] Paul J. Quirk and William Cunion, "Clinton's Dom[estic Policy," 200–225.] Rockman, eds., *The Clinton Legacy* (New York: Sev[eral Publishers, 1436.]

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Electoral considerations were further in evidence during the 2000 presidential election campaign, when Medicare and, in particular, a prescription drug benefit for the elderly "emerged as a first-order issue."[54] Al Gore initially adopted the issue and criticized Bush for not having a clear plan. As the election approached, and with polls showing that this issue resonated with the public, Bush promised that he would introduce a drug benefit if elected[55] and declared it to be a "priority."[56]

Even so, in the evenly balanced 2000 presidential election, Gore won a narrow majority of elderly voters, who cast 14 percent of the votes, by 50 percent to 47 percent, but by much larger margins, he carried those voters who identified health care and prescription drugs as a critical issue. Seven percent of voters indicated that Medicare and prescription drugs were the most important issue, and another 8 percent thought that health care was. Both groups strongly favored Gore over Bush: the former by 60 percent to 38 percent and the latter by 64 percent to 33 percent.[57] A similar Democratic advantage had been visible in 1996.[58]

The partisan commitments made during a period of budget surpluses remained binding even as deficits once again replaced surpluses. This sharp change in the fiscal environment worried deficit hawks, but it was now too late to backtrack. Furthermore, even while divided government circumscribed the possibility of enacting a prescription drug benefit, partisan competition compelled Republicans to ratchet up their offer. Both congressional Republicans and President Bush not only increased the amount that they were willing to spend but also shifted from proposing a means-tested benefit for the low-income government to adopting the Democratic social insurance position that the federal government should subsidize prescription drugs for all the elderly who wanted it. For example, in 1999, congressional Republicans favored spending $61 billion over ten years in order to pay for a means-tested prescription drug benefit for the elderly. Yet, in 2002, the House Republicans' budget resolution overwhelmingly approved $310–320 billion over ten years to subsidize a prescription drug benefit for the elderly who wanted it, and Republican Senators voted for the so-called tri-partisan bill that would have committed $370 billion on the benefit. A year later, unified Republican government agreed to spend $400 billion over ten years on the new benefit.

[54] Oberlander, *Political*
[55] Marilyn Werber Serafini, "Bush's May Be Too Expensive," *National Journal*, 23 September 2000, 2980–2981.
[56] Mary Agnes Carey, "Bush
[57] Exit Poll 2000, accessed at http.
2000.
[58] Exit Poll 1996, accessed at http. *CQW*, 9 September 2000, 2084.
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[49] Gary C. Jacobson, "The Bush Presidency and the American Electorate" in Greenstein, ed., *George W. Bush Presidency*, 210–213; Sinclair, "Context, Strategy, and Chance," 129; John B. Judis and Ruy Teixeira, *The Emerging Democratic Majority* (New York: Scribner, 2004), 184–185.

[50] Oberlander, *Political Life*, 56.

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[53] Mary Agnes Carey, "GOP's Prescription Drug Bill," *CQW*, 17 June 2000, 1436.

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that can be used to pay for health care. They benefit from two tax advantages: tax-deductible contributions and tax-exempt interest. Supporters see HSAs as a step toward improving choice by allowing people to individualize their health care needs and also as a means of increasing incentives to contain costs.[68] In contrast, opponents object that such accounts would be most attractive to the healthy, who would be willing to opt for high-deductible health plans, and the wealthy, who would benefit the most from the tax breaks. Democrats fear that HSAs will allow the healthy and wealthy to further divorce themselves from the health concerns of the less well-off. According to critics, HSAs would encourage adverse selection and undermine the insurance concept of spreading the risk, whether in private or public insurance,[69] and therefore epitomize what Hacker calls the privatization of risk.[70]

When invited to address the House Republican conference,[71] Newt Gingrich, the former Republican Speaker of the House, claimed that making HSAs universally available was "the single most important change in health care policy in 60 years" and cited that aspect of the MMA to persuade some Republicans, who were anxious about the bill's high cost, to vote for it.[72] Wal-Mart's vice president for benefits has recently recommended that Wal-Mart take advantage of the new availability of HSAs, which are financially more attractive to healthy individuals, in order to reduce Wal-Mart's health care costs.[73]

Furthermore, eroding the social insurance nature of Medicare, the MMA introduced means testing into the voluntary Part B of Medicare that covers outpatient physicians' fees.[74] Pre-MMA, each Medicare beneficiary paid the same premium for Part B coverage, with the national government subsidizing that cover by paying 75 percent of the cost. Now, under the MMA, individuals whose adjusted gross incomes exceed $80,000 annually and couples filing joint returns whose adjusted gross incomes exceed $160,000 will pay higher premiums for Part B coverage starting in 2007.[75] Threatening the broad risk pool of social insurance, the MMA's linking of Part B premiums to income provides healthy and wealthy Medicare beneficiaries with an economic incentive to leave Part B

[68] Malcolm Gladwell, "The Moral-Hazard Myth," *The New Yorker*, 29 August 2005, 44–49; George W. Bush, "2002 State of the Union Address," accessed at www.whitehouse.gov/new/releases/2002/01/20020129-11, 29 January 2002.

[69] Hacker and Skocpol, "New Politics," 325, 333; Gladwell, "Moral-Hazard Myth," 49; Edwin Park, Melanie Nathanson, Robert Greenstein, and John Springer, *The Troubling Medicare Legislation* (Washington DC: Center on Budget and Policy Priorities, 2003), 4–5.

[70] Hacker, "Privatizing Risk," 243–260.

[71] Carey, "Medicare Deal," 2879.

[72] Barbara T. Dreyfuss, "Cheap Trick," *The American Prospect*, September 2004, 26.

[73] Susan Chambers, "Reviewing and Revising Wal-Mart's Benefits Strategy: Memorandum to the Board of Directors," 3, 6, 11–13, accessed at www.nytimes.com/packages/pdf/business/26walmart.pdf, 26 October 2005.

[74] Hacker and Marmor, "Medicare Reform," 1–7; Marmor and Hacker, "Medicare Reform and Social Insurance," 475–489.

[75] O'Sullivan, et al., *CRS Report: Overview of the Medicare Act of 2003*, 22–23.

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so that Part B could become the victim of adverse selection,[76] especially if the tax attractions of HSAs are increased.[77] Also, although the Congressional Budget Office estimated that only 3 percent of beneficiaries will pay higher Part B premiums in 2007 and 6 percent by 2013,[78] this provision could become an entering wedge for greater means testing within Medicare that would undermine the social insurance that has characterized Medicare since its inception.[79]

Finally, diminishing the possibility that the new law would become an entering wedge for a more comprehensive benefit and also jeopardizing some of the economic redistribution of Medicare, the law created an entirely artificial trigger for determining a crisis in Medicare financing. The MMA defines a crisis in Medicare financing as two successive trustees' reports projecting that general revenues will finance at least 45 percent of Medicare costs; that trigger will probably be activated soon.[80] (In 1995, congressional Republicans had used the trustees' report predicting a future trust fund shortfall beginning in 2002 to legitimize their proposal to reduce projected increases in Medicare spending and to impose a cap on total Medicare spending.[81]) Although general revenues have always been used to help pay for Part B covering physicians' services, and although general revenues will be used to pay the government's share of the new prescription drug benefit, the new law rejects financing from general revenues as unproblematic; hence the law's definition of a crisis in Medicare's financing manifests "the new politics of Medicare." Also, general tax revenues are a progressive source of funding for Medicare, and their use reinforces Medicare as social insurance that spreads the risk between the wealthy and the poor.[82] Furthermore, because the 45 percent threshold effectively obstructs Congress from simply using general tax revenues in order to address any future problems with Medicare financing, this provision favors conservative reforms of Medicare, such as increased premiums, reduced benefits, higher deductibles, a cap on overall Medicare costs, or an increase in the regressive Medicare payroll tax.[83] Even though some conservative Republicans voted against the bill because they were worried that this provision was inadequate to control Medicare spending, inasmuch as it only requires congressional consideration, not actual corrective legislation,[84] this provision furnishes another example of conservative policy layering.

[76] Theodore R. Marmor and Jerry L. Mashaw, "The Case for Social Insurance" in Stanley B. Greenberg and Theda Skocpol, eds., *The New Majority* (New Haven, CT: Yale University Press, 1997), 100–101.

[77] Marmor and Hacker, "Medicare Reform and Social Insurance," note 36, 483–484; Hacker and Marmor, "Medicare Reform," 3.

[78] Jennifer O'Sullivan, *CRS Report for Congress: Medicare: Part B Premiums* (Washington DC: Congressional Research Service, 2005), 7.

[79] Marmor and Hacker, "Medicare Reform and Social Insurance," 485; Hacker and Marmor, "Medicare Reform," 3.

[80] Park, Greenstein, and Kogan, "Overlooked Element," 1–7; Marilyn Werber Serafini, "Storm Signal for Medicare," *National Journal*, 5 March 2005, 681–682.

[81] Oberlander, *Political Life*, 172.

[82] Vladek, "Political Economy," 24–26.

[83] Park, Greenstein, and Kogan, "Overlooked Element," 1–2.

[84] Mary Agnes Carey, "GOP Wins Battle, Not War," *CQW*, 29 November 2003, 2956.

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Partisan Polarization

While necessary for Republicans, conservative policy layering repelled Democrats, who voted for bills that not only were more generous and therefore more costly but also avoided the restructuring common to Republican bills. Hence, the differences between Republican and Democratic bills epitomized the "new politics of Medicare" and therefore sharply divided Republicans from Democrats.

Divided government witnessed the sharpest partisan divisions around the proposed drug benefit for Medicare. In both chambers, congressional voting on Republican and Democratic versions of a prescription drug benefit for Medicare epitomized the partisan polarization of the contemporary Congress.[85] Despite their small majority, House Republicans passed, on highly polarized votes, their preferred version of a prescription drug benefit in 2000 and again in 2002, but the Senate did not. In the Senate, even when the Democrats' prescription drug bill attracted a majority of fifty-two votes in 2002, it failed to muster the sixty votes necessary to waive the Budget Act and legitimize new spending above the level authorized in the budget resolution.

Between 2000 and 2002, the House held five votes related to a drug benefit for Medicare, while the Senate held nine. Those votes were characterized by high partisan differentiation in both chambers (Figure 1), because they pitted relatively cohesive congressional parties against one another (Figures 2 and 3). While partisan cohesion measures a party's internal unity,[86] partisan differentiation measures the difference between the parties on a legislative vote and ranges from 0, when there is absolutely no difference between the parties' voting behavior, to 200, when the parties are perfectly differentiated, that is, when all members of one party vote against all members of the other.[87] For these votes, the cohesion of House Republicans ranged from 95.5 to 100 percent, whereas the cohesion of Republican senators ranged from 90.7 to 100 percent. The cohesion of Democratic senators matched that of their Republican counterparts, whereas

[85] Richard Fleisher and Jon R. Bond, "The Shrinking Middle in the US Congress," *British Journal of Political Science* 34 (July 2004): 429–451; Richard Fleisher and Jon R. Bond, "Partisanship and the President's Quest for Votes on the Floor of Congress" in Jon R. Bond and Richard Fleisher, eds., *Polarized Politics* (Washington DC: CQ Press, 2000), 154–185; Richard Fleisher and Jon R. Bond, "Polarized Politics: Does It Matter?" in Bond and Fleisher, eds., *Polarized Politics*, 186–200; Gary C. Jacobson, "Party Polarization in National Politics" in Bond and Fleisher, eds., *Polarized Politics*, 10–15; John H. Aldrich and David W. Rohde, "The Transition to Republican Rule in the House," *Political Science Quarterly* 112 (Winter 1997–8): 541–567.

[86] A simple measure of partisan cohesion employs a scale from 50 percent (a congressional party is perfectly divided on a particular vote) to 100 percent (all the members of a party who vote, vote together).

[87] Partisan differentiation is the difference between (1) the sum of the percentage of one party voting for legislation (or amendment or motion) and the percentage of the other party voting against it and (2) the sum of the percentage of the first party voting against the legislation (or amendment or motion) plus the percentage of the other party voting for it. If the difference is a negative number, the negative sign is ignored. For a full explication of partisan differentiation, see Douglas W. Jaenicke, "Abortion and Partisanship in the U.S. Congress, 1976–2000: Increasing Partisan Cohesion and Differentiation," *Journal of American Studies* 36 (April 2002): 6.

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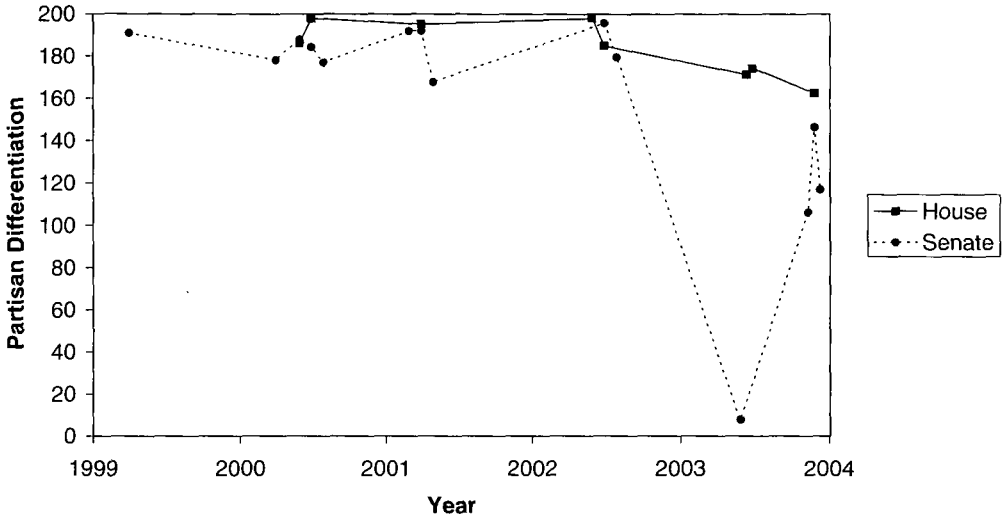
FIGURE 1
Partisan Differentiation in the House and Senate on a Proposed Medicare Prescription Drug Benefit



Sources: CQW 17 April 1999, 913; 8 April 2000, 858; 24 June 2000, 1552; 1 July 2000, 1638; 15 July 2000, 1762; 22 July 2000, 1839; 17 March 2001, 598; 7 April 2001, 797; 28 April 2001, 930; 26 May 2001, 1265; 29 June 2002, 1782; 27 July 2002, 2070; 28 June 2003, 1643, 1652; 29 November 2003, 2975, 2980.

House Democrats voted almost unanimously on this issue (Figures 2 and 3). Because relatively unified congressional parties opposed one another on these votes, partisan differentiation ranged from 185 to 198 in the House and from about 168 to 196 in the Senate (Figure 1).

Six of these votes, five in the Senate and one in the House, related to financing the proposed benefit. This issue explicitly pitted Republicans who prioritized tax cuts against Democrats who preferred government-guaranteed economic security. Republicans proposed to use the temporary surplus in the Medicare trust fund to finance the new benefit, whereas Democrats proposed to reduce or delay Republican-initiated tax cuts to pay for the benefit out of general tax revenues and therefore to avoid increasing the fiscal strain on Medicare. On these six votes, partisan differentiation ranged from 177 (90.7 percent of Republican senators versus 97.8 percent of Democrats) to 195.2 (98.6 percent of House Republicans versus 99 percent of Democrats).

When the 2002 elections created unified Republican government, the question was whether Republicans would push their preferred version of the benefit or whether there would be an attempt at the bipartisanship of NCLB. Contrasting the partisanship of Bush's tax cuts, John Fortier and Norman Ornstein argued that Bush initially adopted a bipartisan strategy for prescription drugs.[88]

[88] John C. Fortier and Norman J. Ornstein, "President Bush: Legislative Strategist" in Greenstein, ed., *The George W. Bush Presidency: An Early Assessment*, 169.

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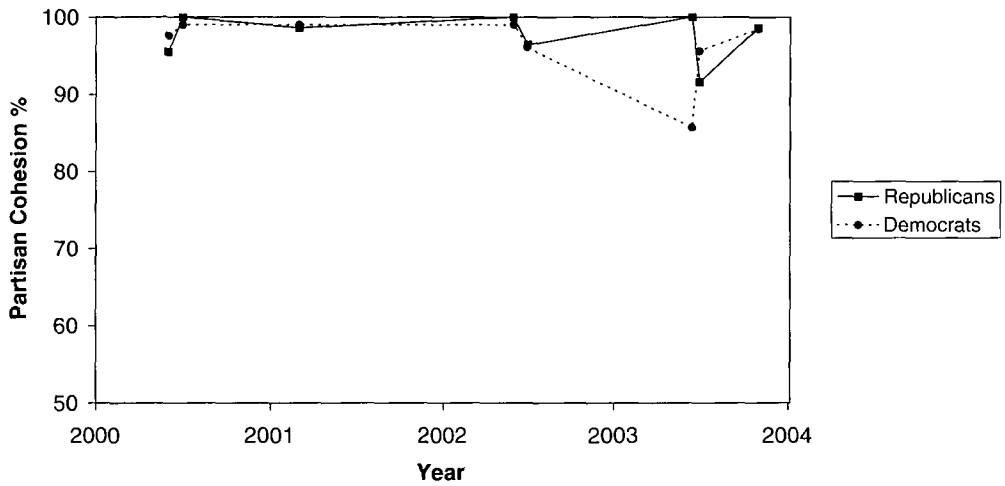
FIGURE 2
Republican and Democratic Cohesion in the House of Representatives on a Proposed Medicare Prescription Drug Benefit



Sources: CQW 1 July 2000, 1638; 28 April 2001, 930; 29 June 2002, 1782; 28 June 2003, 1652; 29 November 2003, 2980.

If so, that bipartisan approach proved temporary. Yet, even while eschewing bipartisanship, the administration and congressional Republicans still had to overcome the Senate's super-majority rules. Once again, both the voting and coalition strategies manifested the partisan polarization of the contemporary Congress.

In the majoritarian House, there was no attempt at bipartisan compromise.[89] For example, the House bill would have provided vouchers to Medicare beneficiaries to purchase either FFS Medicare or private health insurance.[90] This Republican attempt to replace Medicare's defined benefit with a defined contribution was anathema to Democrats, who correctly saw vouchers as ending Medicare's status as social insurance.

Furthermore, House Republicans passed a separate bill creating HSAs at a cost of $174 billion over ten years and adopted a rule incorporating the HSA bill into any prescription drug benefit legislation. In the earlier context of divided government, congressional Republicans had been unable to overcome Democratic opposition to HSAs (or MSAs) and had only succeeded in extracting a small number as a condition for enacting the consensual 1996 Health Insurance Portability and Accountability Act and later as part of the bipartisan 1997 Balanced Budget Act. Just as previous Republican legislation to universalize the availability of MSAs had generated high levels of partisan differentiation, so too did the House Republicans' HSA bill in 2003. Producing a partisan differen-

[89] Adams with Carey, "Compromise Will Come Hard," 1611–1613, 1616–1617; Amy Goldstein and Helen Dewar, "Medicare Bills Would Add Drug Benefits," *New York Times*, 27 June 2003.

[90] Adams with Carey, "Compromise Will Come Hard," 1611–1613, 1616–1617.

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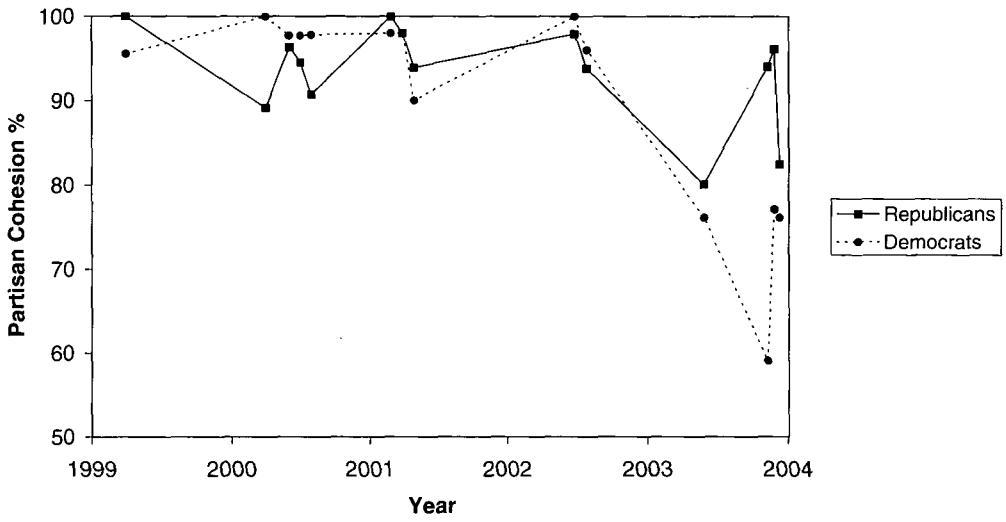
FIGURE 3
Republican and Democratic Cohesion in the Senate on a Proposed Medicare Prescription Drug Benefit



Sources: CQW 17 April 1999, 913; 8 April 2000, 858; 24 June 2000, 1552; 15 July 2000, 1762; 22 July 2000, 1839; 17 March 2001, 598; 7 April 2001, 797; 26 May 2001, 1265; 27 July 2002, 2070; 28 June 2003, 1643; 29 November 2003, 2975.

tiation of 183.4, all but one House Republican voted for their HSA bill, whereas 92.6 percent of Democrats voted against it (Table 1).

After passing the HSA bill, the House then defeated the Democrats' alternative prescription drug benefit (partisan differentiation of 171.4). After a nearly perfect party line vote had defeated a Democratic motion to recommit, the House passed the Republicans' prescription drug bill by a single vote. Manifesting the asymmetric powers of the majority party,[91] as well as the importance they attached to the bill's passage, Republican leaders kept the vote open for an extra thirty minutes.[92] Although 91.6 percent of Republicans voted for that legislation, 95.6 percent of Democrats voted against it, so that partisan differentiation was 174.4 (Figures 1 and 2; Table 1).

In contrast to the highly partisan legislation passed by the House, the Senate initially passed a bipartisan bill that produced almost no partisan differentiation, inasmuch as substantial majorities of each party voted for it. However, that bipartisan bill was not consensual, because 20 percent of Republicans and 24 percent of Democrats voted against it (Figure 3; Table 2). A year earlier, Senator

[91] John H. Aldrich and David W. Rohde, "The Consequences of Party Organisation in the House" in Bond and Fleisher, eds., *Polarized Politics*, 40–59.

[92] Jonathan Allen and Adam Graham-Silverman, "Hour by Hour, Vote by Vote, GOP Breaks Tense Tie," *CQW*, 28 June 2003, 1614–1615.

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TABLE 1

Partisan Differentiation and Cohesion in the House on Three Issues, 2001–2003

	Partisan Differentiation	*Republican Cohesion (%)*	*Democratic Cohesion (%)*
Education bill, 2001	16.0	84.5	92.5
Conference education bill, 2001	24.8	84.7	97.1
1rst Tax cut bill, 2001	190.4	100.0	95.2
Democratic substitute*	189.4	100.0	94.2
2nd Tax cut bill, 2001	138.2	100.0	69.1
3rd Tax cut bill, 2001	141.4	98.6	72.1
Conference tax cut bill, 2001	169.0	100.0	84.5
Tax cut bill, 2003	193.2	98.6	98.0
Conference tax cut, 2003	192.4	99.6	96.6
HSA bill, 2003	183.4	99.1	92.6
Democratic substitute Medicare prescription drug benefit, 2003	171.4	100.0	85.7
Republicans' Medicare prescription drug benefit, 2003	174.4	91.6	95.6
Conference MMA, 2003	162.6	89.1	92.2

Sources: CQW 10 March 2001, 562; 31 March 2001, 744; 7 April 2001, 804; 26 May 2001, 1278; 2 June 2001, 1326; 15 December 2001, 3002; 17 May 2003, 1220; 24 May 2003, 1292; 28 June 2003, 1652; 29 November 2003, 2980.

MMA, Medicare Prescription Drug, Improvement and Modernization Act.

*Fortier and Ornstein describe the Democrats' substitute bill as the "key vote" on the second tax cut bill. John C. Fortier and Norman J. Ornstein, "President Bush: Legislative Strategist" in Fred I. Greenstein, ed., *The George W. Bush Presidency: An Early Assessment* (Baltimore, MD: Johns Hopkins University Press, 2003), 149.

John Breaux (D-LA) had described this type of nonconsensual bipartisan decision making: "It seems that the best way to design this program is to lose the far right and the far left of both caucuses which is always the way I like to do it. Start in the center and work out until you get a majority, which necessarily leaves people on the left and the right off."[93] Hence, opponents of the bipartisan bill were ideologically disparate: some conservative Republicans, fearing an expensive new entitlement, and some liberal Democrats, fearing Medicare privatization.

Although the final vote on the Senate bill was bipartisan, most votes on amendments were highly partisan, inasmuch as both parties, and especially the Democrats, proposed amendments intended to reshape the legislation in their preferred direction. Although four of the thirty votes prior to passage were consensual and another nonpartisan vote[94] generated a low to moderate partisan differentiation of 77.2, twenty-five produced partisan differentiation ranging from a moderate 103.8 to a high 187. For those twenty-five partisan votes, the median partisan differentiation was 178.2 and the mean was 163. The Senate defeated twenty of twenty-four Democratic amendments, as well as a Democratic motion to table one of three partisan Republican amendments. Of the four Democratic amendments that were adopted, two were consensual, and the other two unified

[93] Marilyn Werber Serafini, "Breaux's Gamble," *National Journal*, 27 July 2002, 2247–2248.

[94] A nonpartisan vote entails a majority of each party voting on the same side. In contrast, a partisan vote pits a majority of one party against a majority of the other party.

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TABLE 2

Partisan Differentiation and Cohesion in the Senate on Three Issues, 2001–2003

	Partisan Differentiation	*Republican Cohesion (%)*	*Democratic Cohesion (%)*
Education bill, 2001	16.2	87.8	95.9
Conference education bill, 2001	11.6	93.6	87.8
Tax cut bill, 2001	152.0	100.0	76.0
Conference tax cut, 2001	135.8	95.8	72.1
Tax cut bill, 2003	175.8	94.1	93.8
Conference tax cut, 2003	179.8	94.1	95.8
Bipartisan Medicare prescription drug benefit, 2003	7.8	80.0	76.1
Conference MMA, 2003	117.0	82.4	76.1

Sources: CQW 26 May 2001, 1272; 2 June 2001, 1328; 16 June 2001, 1469; 22 December 2001, 3110; 17 May 2003, 1219; 31 May 2003, 1342; 28 June 2003, 1643; 29 November 2003, 2975.

Democratic senators and divided Republicans and therefore generated moderate partisan differentiation of 103.8 and 115.6. The twenty votes that defeated Democratic amendments produced a mean partisan differentiation of 174.1 and a median differentiation of 179.6.[95]

Conceding that the bipartisan Senate bill posed a dilemma for most Democrats, Tom Daschle, Democratic minority leader, concluded: "Most of us believe that this is the time to put what we can in the bank and try to improve it and build on it from here."[96] Hence, Daschle viewed the bipartisan Senate bill as a potential entering wedge for a more comprehensive prescription drug benefit in the future.

The conference committee then had to reconcile the differences between the partisan House bill and the bipartisan Senate bill. Now congressional Republicans and Bush turned to a cross-partisan strategy[97] of building a center-right coalition that took into account the need to attract sufficient Democratic support in the Senate to circumvent a filibuster. Wielding the asymmetric power of the majority party, the Republican-controlled conference committee effectively excluded every Democrat except for senators Max Baucus (D-MT) and Breaux,[98] two conservative-leaning moderate Democrats, who had previously demonstrated a willingness to work with congressional Republicans to reform Medicare and to enact a prescription drug benefit and who had regularly voted with Republicans to defeat Democratic amendments to the earlier bipartisan Senate bill. To attract sufficient Democratic votes, Republican leaders "scaled back plans to have Medicare's traditional fee-for-service plan compete directly with private insurers on price" as well as the bill's cost-control provisions.[99]

Excluded from the conference committee, House Democrats unsuccessfully tried on five occasions to instruct the Republican House conferees to support less

[95] *CQW*, 28 June 2003, 1639–1643.
[96] Adams with Carey, "Compromise Will Come Hard," 1612.
[97] Jones, *Presidency*, 22–23.
[98] Kate Schuler, "Democrats Crash Conference Meeting," *CQW*, 1 November 2003, 2703.
[99] Carey, "GOP Wins Battle," 2956.

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partisan legislation. Those unsuccessful Democratic motions to instruct generated nearly perfect partisan differentiation ranging from 193.6 to 199.0.[100]

Manifesting the unhappiness of economic conservatives with the likely creation of an expensive new entitlement available to all the elderly, Flake (R-AZ) unsuccessfully moved to instruct the House conferees to means test Medicare benefits generally. Generating a partisan differentiation of 144, 75.2 percent of House Republicans voted for Flake's motion, and 96.8 percent of Democrats opposed it.[101]

The conference committee bill generated a high partisan differentiation of 162.6 in the House, with 89.1 percent of Republicans voting for it and 92.2 percent of Democrats voting against it (Figures 1 and 2; Table 1). Although they were unhappy with its cost and its limited restructuring of Medicare, some conservative Republicans still voted for the bill because they feared that its defeat would result in the enactment of an even more expensive benefit.[102] Reflecting the partisan importance they attached to the legislation, House Republican leaders again employed the asymmetric powers of the majority party to hold open the floor vote for an unprecedented nearly three hours in order to transform a 215 to 219 absolute majority against the bill into a 220 to 215 majority to pass it.[103]

In the Senate, the cross-partisan conference bill twice had to muster super-majorities. Circumventing a possible filibuster, seventy senators voted to limit debate, and twenty-nine voted against. Despite that comfortable margin, the cloture vote still produced a moderate partisan differentiation of 106.2, because 94 percent of Republican senators voted for cloture, and 59 percent of Democrats voted against. The Democrats came closest to defeating the bill on the vote to waive the Budget Act; sixty-one senators, one more than required, voted to waive it. That procedural vote generated moderately high partisan differentiation of 146.4; 96.1 percent of Republicans voted to waive, and 77.1 percent of Democrats voted against. By 54 to 44, the Senate then passed the bill; partisan differentiation was a moderate 117.0 (Table 2; Figures 1 and 3). (The different levels of partisan differentiation generated by the conference bill in the two chambers underscore the difference between senators and representatives independent of the rules of each chamber.)

Although the creation of an expensive new entitlement worried economically conservative Republicans, some of whom voted against the conference bill, and although some Democrats were enticed to vote for the legislation precisely because it addressed both policy drift and conversion, a large majority of each congressional party judged the final bill to be largely Republican, not bipartisan, legislation. In June, 80 percent of Republican senators and 76.1 percent of Democrats had voted together to pass the bipartisan bill. Six months later,

[100] *CQW* 13 September 2003, 2264; 27 September 2003, 2390, 2392; 22 November 2003, 2924, 2930.

[101] *CQW*, 11 October 2003, 2524.

[102] Jackie Koszczuk and Jonathan Allen, "Late-Night Medicare Vote Drama," *CQW*, 29 November 2003, 2959; Alex Simindinger, "Define Crisis," *National Journal*, 12 February 2005, 462–463.

[103] Gebe Martinez, "Long Back-and-Forth House Vote," *CQW*, 29 November 2003, 2962–2963.

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although each party's cohesion remained virtually unchanged, 82.4 percent of Republican senators voted for the conference bill while 76.1 percent of Democrats voted against it (Table 2).

The Distinctiveness of the MMA

Comparing the MMA to the bipartisan 2001 NCLB education law and the highly partisan 2001 and 2003 tax cuts highlights the ambiguity of the MMA and also the incompleteness of an explanation of the MMA that focuses exclusively on electoral expediency. The new prescription drug entitlement for the elderly was qualitatively different from the bipartisan NCLB law, the other major piece of social policy legislation of Bush's first term. Like health care, education was traditionally a Democratic issue. However, almost no partisan layering, either conservative or liberal, accompanied the bipartisan NCLB education law. As a result, the bipartisan NCLB law most nearly resembled the bipartisan prescription drug bill that passed the Senate in June 2003 (Tables 1 and 2). In both chambers, votes on partisan educational amendments relating to school vouchers, mandatory federal funding of special education, and block-granting educational spending generated moderately high to high partisan differentiation,[104] but those controversial provisions were largely absent from the bipartisan bills that passed both chambers and the final bipartisan conference bill.[105]

Also, the NCLB law did not change the discretionary nature of educational spending; hence, congressional Republicans and President Bush have appropriated much less money than is authorized by NCLB. For example, although NCLB authorized $26.3 billion for elementary and secondary education for fiscal 2002, only $22 billion was actually appropriated. In addition, in the conference committee, as a condition for enacting NCLB, House Republicans insisted upon the removal of the provision included in the bill passed by the Democratic-controlled Senate that would have made spending on special education mandatory. In contrast, by creating a new entitlement to a defined benefit, the MMA established an open-ended budgetary commitment whose estimated ten-year cost has escalated rapidly from $400 billion to $534 billion and now to $724 billion. Furthermore, the cost of the MMA dwarfed the additional spending associated with NCLB. In contrast to the MMA, Congress increased spending on primary and secondary education by only $3.5 billion (or 18.9 percent) between the 2001 and 2002 fiscal years.[106]

The politics of the MMA also differed from the politics of the 2001 and 2003 tax cuts, a Republican issue, that were clearly part of Bush's articulation of the

[104] *CQW*, 26 May 2001, 1274, 1276, 1278; 9 June 2001, 1400; 16 June 2001, 1467–1469.

[105] Sinclair, "Context and Strategy," 115–116; Fortier and Ornstein, "President Bush," 151–152.

[106] *Congressional Quarterly Almanac 2001* (Washington DC: Congressional Quarterly Press, 2002), 2–37, 8–3.

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Reagan legacy. Regarding the MMA, President Bush and congressional Republicans made some concessions to some Democratic senators in order to obviate the problem of a Democratic filibuster, even though such concessions inevitably repelled some Republicans. In contrast, by incorporating the tax cuts into the budget reconciliation bill, which could not be filibustered, they largely avoided the need to compromise with Democrats. Although the 2003 tax cuts generated higher partisan differentiation than the earlier ones, both the earlier and later tax cuts generated significant partisan differentiation. The lower partisan differentiation of the 2001 tax cuts bills reflected that a substantial minority of Democrats voted for those tax cuts (with the exception of the first tax cut bill in the House), whereas Republicans in both chambers united in favor of the tax cuts (Tables 1 and 2). The 2003 tax cuts generated higher partisan differentiation in both chambers, because the Democrats' cohesion in opposing the tax cuts now approximated the Republicans' support for them (Tables 1 and 2). In contrast to the House Republicans' near unanimity in passing the 2003 HSA bill and also to the Republicans' high degree of cohesion in both chambers in voting for tax cuts, congressional Republicans were much less united behind their prescription drug benefit for Medicare (Tables 1 and 2).

Conclusion

Recent studies of welfare reform in Europe have found that in fragmented political systems in which there are multiple veto points, welfare legislation that was identified with a particular party or ideology sometimes was enacted as part of legislative quid pro quos.[107] In the United States, with its multiple veto points, the 2001 NCLB law and the Senate's bipartisan prescription drug bill embodied this type of bipartisan compromise. In contrast, although the MMA is an amalgam of liberal expansion and conservative policy layering, the final MMA was the product of unified Republican government, not bipartisan quid pro quos. Also, the MMA was not simply a case of conservative restructuring, unlike Bush's proposal after his reelection to introduce private accounts into Social Security.

Conservative policy layering and popular support for updating Medicare explain why a substantial majority of Republicans voted for the law despite conservative reservations about the expense of a new entitlement. The MMA's conservative aspects also explain why a majority of Democrats voted against it, even though they favored a new prescription drug benefit for Medicare. Conversely, the law's creation of a new entitlement explains why some conservative Republicans voted against the bill and why a minority of congressional Democrats voted for it. Illustrating the complexity of contemporary welfare state politics, the new entitlement confirms that some welfare state programs enjoy strong public

[107] Giuliano Bonoli, "Political Institutions, Veto Points, and the Process of Welfare State Adaptation" in Pierson, ed., *New Politics*, 238–240.

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support,[108] and the law's conservative restructuring simultaneously confirms Hacker's analysis of potentially privatizing reform occurring through stealth-like strategies. Although interest group politics, such as the American Association of Retired Persons' endorsement of the bill, and increased payments to rural hospitals and some physicians also played a role at the margins in the passage of the MMA, electoral calculation and ideological differences were central to its politics.

A number of economically conservative Republicans were cross-pressured by their ideological preferences and electoral pragmatism, and vital Republican votes in the House were secured only when the White House flexed its muscles. Indeed, there is some evidence that "the White House covered up legitimate cost estimates in an attempt to put through a more expensive program than many [Republicans] in Congress thought they were voting for."[109] When the higher cost estimates were eventually released after the enactment of the MMA, former Republican Senate Majority Leader Trent Lott declared: "I think I made a big mistake. I regret I didn't kill it [MMA] when I had a chance to kill it on a technical point of order .... That's one of the worst votes I've cast in my 32 years in Congress."[110]

It is difficult to reconcile the creation of an expensive new entitlement with a conservative desire to limit the role of federal government. According to Schier, the White House forsook its policy preference on prescription drugs for the elderly in order to "broaden the regime's coalition of supporters."[111] Therefore, when enacting the prescription drug benefit, Bush and congressional Republican leaders were indirectly promoting their broader conservative agenda by warding off an attack from the political opposition. Hence, the MMA case suggests that popular support for social insurance not only can impede explicit conservative reform but also can pressure even economic conservatives to expand social provision to counter previous policy drift and conversion. Therefore, Hacker's analysis of de facto welfare state retrenchment through a strategy of neglecting to update individual programs[112] needs to take greater account of electoral pressures. On the other hand, the determination of the Bush White House and congressional Republicans to pursue their conservative agenda whenever possible should not be underestimated. Hence, President Bush and congressional Republicans linked the new prescription drug benefit to some restructuring of Medicare and health insurance more generally. In this context, Hacker's account of conservative policy layering has powerful explanatory value.*

[108] Pierson, "Coping with Permanent Austerity," 411–412, 416.

[109] Joel D. Aberbach, "The Political Significance of the George W. Bush Administration," *Social Policy and Administration* 39 (April 2005): 141.

[110] Mary Agnes Carey, "Lott Laments His Medicare Vote," *CQW*, 27 March 2005, 726.

[111] Schier, "George W. Bush," 2.

[112] Hacker, "Privatizing Risk," 243–260.

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The Rise of a European Defense

SETH G. JONES

Over the last decade, the European Union's major powers have collaborated to build an increasingly integrated and technologically advanced defense industry. In Britain, for example, key weapons programs include the Storm Shadow long-range cruise missile, the Brimstone anti-tank missile, and the Eurofighter combat aircraft. In Germany, key programs include the A400M tactical and strategic airlift and the Taurus air-to-surface guided missile. In France, programs include the Galileo global navigation satellite system, the European medium-altitude long-endurance unmanned aerial vehicle, and the Scalp cruise missile. All of these weapons and platforms have something significant in common: they are being developed and produced in collaboration with other European states and firms. In some areas, such as missiles, research and development occur almost exclusively at the European level through the transnational European firm MBDA. The European Union's establishment of a European Defense Agency in 2004 in Brussels has further increased the prospect of an integrated European defense market. As Henry Kissinger argues: "The emergence of a unified Europe is one of the most revolutionary events of our time."[1]

These developments are striking. Most Americans consider European defense cooperation more fiction than fact.[2] However, a significant amount of quantitative and qualitative evidence strongly suggests that EU states are gradually building a strong and integrated defense industrial base. This will likely have important implications for the future of the transatlantic relationship. It will also

[1] Henry Kissinger, *Does America Need a Foreign Policy? Toward a Diplomacy for the 21st Century* (New York: Simon & Schuster, 2001), 47.

[2] See, for example, John J. Mearsheimer, *The Tragedy of Great Power Politics* (New York: W.W. Norton, 2001), 360–402; Philip Gordon, "Europe's Uncommon Foreign Policy," *International Security* 22 (Winter 1997/98): 74–100; Robert J. Art, "Why Western Europe Needs the United States and NATO," *Political Science Quarterly* 111 (Spring 1996): 1–39; Robert Kagan, *Of Paradise and Power: America and Europe in the New World Order* (New York: Alfred A. Knopf, 2003).

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have significant ramifications on the structure of the international system if Europe continues to become an integrated political, economic, and defense actor.

Why are European states increasingly collaborating in the defense industry? To answer the question, this article has two objectives. First, it argues that the changing structure of the international system explains the shift to intra-European collaboration in the post-Cold War era. During the Cold War, European states were primarily concerned about balancing the Soviet Union. They were more likely to collaborate on advanced weapons with the United States and U.S. firms than with each other. However, this changed at the end of the Cold War. In a unipolar international system, EU states led by Germany, France, and Britain have collaborated in the defense industry to increase their economic and defense power and decrease reliance on the United States. To be clear, the United States does not pose a military threat to Europe. Rather, European defense firms are motivated to collaborate in order to globally compete with the U.S. defense industry in terms of arms sales and spin-offs, as well as to lessen reliance on the United States for weapons. The 2003 U.S.-led war in Iraq only increased these trends.

Second, in order to test the argument, this article adopts two methodological approaches: it compiles a data set of defense mergers and acquisitions, coproduction projects, and codevelopment projects; and it uses a case study approach. It compiles and examines a data set of 478 cases of interstate collaboration involving European defense firms between 1961 and 2000. Of particular interest is identifying trends in the data over time. It also adopts a case study approach to understand the motivation of French, German, and British leaders. It examines primary and secondary sources, such as documents from the French procurement agency Délégation Ministérielle de l'Armement (DGA), German defense *White Papers*, British Ministry of Defence documents, and EU defense documents such as the *Strategic Aerospace Review for the 21st Century*.

The article is divided into five sections. First, it lays out states' procurement options and sketches the argument. Second, it briefly examines the defense production data. Third, it explores coproduction, codevelopment, and mergers and acquisitions (M&As) developments during the Cold War. Fourth, it analyzes changes in the European defense industry since the end of the Cold War. Fifth, it concludes by examining the future of the transatlantic relationship.

Defense Procurement Options

National governments play the most important role in determining the shape of defense industries. Ministries of Defense are the only—or at least the major—buyers of weapons, and consequently are able to wield substantial power on the demand side of the market. This marks a strong contrast with most non-defense markets. Defense firms generally do not develop equipment and then attempt to sell it to their governments. Rather, governments and defense departments collect classified information about foreign capabilities and threats, devise a grand strategy to curb those threats, and then equip

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themselves accordingly. The influence of governments is particularly significant regarding transnational activity. For example, M&As involving foreign firms require the consent of the government to prevent the export of critical technologies or jobs. Arms exports require special permission to protect national security and ensure that they are consistent with foreign policy objectives. Governments may even wish to prevent the export of weapons or technology to allied countries because of concern that they will find their way to adversaries. In short, governments play the central role vis-a-vis transnational activity because of security concerns. These attributes make the defense market very different from conventional markets.[3]

State Options

States have three general options when procuring weapons and systems. They can develop and produce weapons domestically (autarky), purchase from abroad (foreign dependence), or cooperate in the development and production of weapons (collaboration) (Table 1).

First, states may choose *autarky*. They can design and produce weapons domestically, either through a nationalized defense industry or through private firms that are domestically owned. Realists have long noted that in an anarchic international system, states will prefer autarky and self-sufficiency to cooperation. "In a self-help system, considerations of security subordinate economic gain to political interest," Kenneth Waltz argues. "Defense spending, moreover, is unproductive for all and unavoidable for most. Rather than increased well-being, their reward is in the maintenance of their autonomy. States compete, but not by contributing their individual efforts to the joint production of goods for their mutual benefit."[4] Great powers have historically preferred autarky when procuring weapons because it ensures security of supply, sustains a strong defense industrial base, and maintains national technological capabilities.[5] Chinese leaders learned this when the USSR abruptly

[3] On defense economics, see Keith Hartley, *NATO Arms Co-operation: A Study in Economics and Politics* (London: Allen & Unwin, 1983); Todd Sandler and Keith Hartley, *The Political Economy of NATO: Past, Present, and Into the 21st Century* (New York: Cambridge University Press, 1999); Todd Sandler and Keith Hartley, *The Economics of Defense* (New York: Cambridge University Press, 1995); Gavin Kennedy, *The Economics of Defence* (London: Faber and Faber, 1975); Gavin Kennedy, *Defense Economics* (New York: St. Martin's Press, 1983); Frederic M. Scherer, *The Weapons Acquisition Process: Economic Incentives* (Boston, MA: Division of Research, Graduate School of Business at Harvard University, 1964).

[4] Kenneth Waltz, *Theory of International Politics* (New York: McGraw-Hill, 1979), 107.

[5] Trevor Taylor and Keith Hayward, *The UK Defence Industrial Base: Development and Future Policy Options* (Washington DC: Brassey's Defence Publishers, 1989), 67; Aaron L. Friedberg, *In the Shadow of the Garrison State: America's Anti-Statism and Its Cold War Grand Strategy* (Princeton, NJ: Princeton University Press, 2000), 245–295; E.H. Carr, *The Twenty Years' Crisis: 1919–1939* (New York: Harper & Row, 1964), 120–121.

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TABLE 1

Summary of Procurement Options

Options	*Characteristics*
Autarky	Weapons are developed and produced domestically
Foreign Dependence	All or most weapons and technology imported
Collaboration	Weapons are developed and produced with foreign nations and defense firms. Can include M&As, coproduction, and codevelopment projects

cut off military aid in the early 1960s and Western countries imposed an arms embargo after the 1989 Tiananmen Square incident.

Second, at the other end of the spectrum, states may pursue a procurement policy of *foreign dependence*. Weaker states are generally forced to adopt a policy of foreign dependence because they lack the power to be autarkic. States need a substantial amount of resources, technology, and personnel to build weapons. This is particularly true in the modern era because the high cost of advanced weapons makes them either difficult or impossible for small powers to develop and produce on their own.[6] For example, research, development, and production costs of modern fighter aircraft can be exorbitant. Consider the Lockheed Martin Joint Strike Fighter, whose development and production costs are estimated to exceed $300 billion over twenty-five years.[7] Manufacturing complex modern weapon systems, such as combat aircraft and submarines, requires skill levels that only the most industrialized countries possess.[8] Third-world and many industrializing states simply do not have the money and resources necessary to build technologically advanced militaries, and consequently, they are dependent on foreign weapons and technology. For these states, foreign dependence may be most efficient because it allows them to devote scarce resources to commercial rather than defense industries.

[6] Edward A. Kolodziej, *Making and Marketing Arms: The French Experience and Its Implications for the International System* (Princeton, NJ: Princeton University Press, 1987), 141. On rising costs, see Hartley, *NATO Arms Co-operation*, 30; Michael Brzoska and Peter Lock, eds., "Restructuring of Arms Production in Western Europe: Introduction" in Michael Brzoska and Peter Lock, eds., *Restructuring of Arms Production in Western Europe* (New York: Oxford University Press, 1992), 4–5; Jacques Gansler, "Needed: A U.S. Defense Industrial Strategy," *International Security* 12 (Autumn 1987): 45–62.

[7] The Joint Strike Fighter estimates are based on 3,000 aircraft configured in conventional takeoff and landing (CTOL) variant, short takeoff and vertical landing (STOVL) variant, and carrier variant (CV). Target flyaway costs for each variant are approximately $28 million for the CTOL, $30–$35 million for the STOVL, and $31–$38 million for the CV in 1994 dollars. See John Birkler, et al., *Assessing Competitive Strategies for the Joint Strike Fighter: Opportunities and Options* (Santa Monica, CA: RAND, 2001), 2.

[8] Klauss Knorr, "Military Strength: Economic and Non-Economic Bases" in Klauss Knorr and Frank N. Trager, eds., *Economic Issues and National Security* (Lawrence: University Press of Kansas, 1982), 185.

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Third, states may pursue a policy of transnational *collaboration*. This entails the design and production of weapons in cooperation with foreign nations and defense firms. There are at least three types of transnational collaboration:

- M&As—The merger with or outright purchase of a foreign defense firm. M&As generally include the purchase of company shares up to gaining majority control.
- Coproduction—Shared production and assembly of a weapon, class of weapons, or weapon part. Defense contractors from participant countries purchase the same equipment and jointly produce the weapon.
- Codevelopment—The joint design, engineering, and development of a weapon, class of weapons, or weapons part. Codevelopment involves two or more firms agreeing to a common requirement, sharing research and development costs, and combining national orders.

Why Defense Industry Collaboration?

Under what conditions will states pursue a strategy of multilateral defense collaboration? Significant interstate collaboration has been rare among great powers. However, the existence of a preponderant power such as the United States can create a strong impetus for weaker states to collaborate on defense production to increase power and decrease reliance.

I begin with the same assumptions as most realists. First, the international system is anarchic. This is an ordering principle; it does not mean that the international system is chaotic or disorderly. Rather, it means that there is no world government or authority above states to enforce agreements or guarantee security. Second, states can never know with 100 percent certainty the current and future intentions of others. There are limits to transparency and information sharing. States may have an incentive to misrepresent such information, and intentions can change. Third, states are rational actors. Policymakers are aware of their external environment, and they think strategically about how to survive in it. They are forward-looking and calculate the best means to ensure their own survival, given the actions and reactions of other states.[9]

Taken together, these assumptions mean that states care a great deal about power, especially the distribution of power. Power in this context refers to material capabilities, and particularly to military and economic assets. Power is important because it can make states more secure, and it can increase their

[9] Waltz, *Theory of International Politics*, 102–128; Hans J. Morgenthau, *Politics Among Nations: The Struggle for Power and Peace* (New York: Alfred A. Knopf, 1963), 3–15; Mearsheimer, *The Tragedy of Great Power Politics*, 31; Stephen M. Walt, *The Origins of Alliances* (Ithaca, NY: Cornell University Press, 1987), 17–49.

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ability to influence, deter, and coerce others. Conversely, the absence of power decreases the ability of states to do these things, and makes them more reliant on those with greater power. Power is thus relative.[10] Weaker states have a strong incentive to increase their power and decrease reliance on more powerful states. Because power is the key means and end of states, the distribution of power in international and regional systems is an important causal variable. Historically, two distributions of power have existed: multipolarity and bipolarity. In the aftermath of the Cold War, the international system moved to yet another distribution of power: unipolarity. With the demise of the Soviet Union, the United States became the most powerful state in the international system. As Samuel Huntington argues, the shift to a unipolar international system has had a profound impact on international politics by triggering efforts to challenge America's economic and defense primacy.[11] Collaboration increases power by aggregating economic and defense resources, and decreases reliance on the preponderant state.

First, aggregating defense resources increases the military and economic power of weaker states. Because of their unrivaled position in the international system, preponderant states tend to feel few restraints. This increases their incentive to assert power around the globe.[12] Hans Morgenthau argued that "without a state of equilibrium among them, one element will gain ascendancy over the others" and "encroach upon their interests and rights."[13] In the defense industry, a preponderant state's defense firms are likely to have global power and reach in an open international trading system. It will try to expand its arms sales to foreign markets, pursue an arms monopoly, and thereby increase influence over others. These actions create a strong impetus for other states to combine power. By collaborating and pooling resources, weaker states can build more technologically advanced weapons and sell them abroad. Collaboration allows them to increase their competitiveness on the global arms market, especially relative to the dominant power. The cost can be high of failing to collaborate or build sufficient power through an autarkic strategy: weaker states and firms will lose market share and weaken their defense industrial base.

In a unipolar international system, U.S. economic and defense dominance has created a strong impetus for European states to collaborate to increase European economic and defense power. Collaboration increases the global power of European defense firms and allows them to compete more effectively with the United States in terms of arms sales and the spin-offs that defense

[10] Joseph M. Grieco, "Anarchy and the Limits of Cooperation: A Realist Critique of the Newest Liberal Institutionalism," *International Organization* 42 (Summer 1988): 485–507.

[11] Samuel P. Huntington, "Why Primacy Matters," *International Security* 17 (Spring 1993): 68–83.

[12] Robert Jervis, "The Compulsive Empire," *Foreign Policy* 137 (July/August 2003): 83–87.

[13] Morgenthau, *Politics Among Nations*, 169. Also see Hans Morgenthau and Kenneth Thompson, eds., *Principles and Problems of International Politics* (New York: Knopf, 1950), 104; Inis L. Claude, *Power and International Relations* (New York: Random House, 1962), 11–39.

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industries can produce. To be clear, the United States does not pose a military threat to Europe. European states are not motivated to aggregate resources to contain an America that threatens their security through military conquest. Rather, as noted by John Rose, former chief executive of Rolls-Royce, European states and defense firms are collaborating in order to globally compete with the U.S. defense industry in terms of arms sales and spin-offs. "Competition for Europe's aerospace industry comes primarily from the US. The US industry is roughly twice the size in terms of employment and turnover. ... The need to strengthen R&D efforts at a European level and to coordinate with national programs is quite simply, essential."[14] Former General Electric Company director Arnold Weinstock similarly noted that European companies "have to respond to the changes in America. They are producing giant companies through these mergers. ... We have to form companies of sufficient size to compete effectively with them."[15] The cost of not collaborating is straightforward: European states could not compete with the United States on the global arms market. European defense companies might be reduced to second- or third-tier companies, or possibly face extinction.

Second, weaker states may aggregate power to decrease reliance on a preponderant state. The risk for weaker states is that a failure to aggregate power may create a reliance on the preponderant state for defense resources and lead to foreign dependence. Dependence decreases security of supply and compromises the viability of a state's defense industrial base. In general, reliance on a preponderant power for weapons and military resources decreases a state's security by placing its supply in the hands of someone else. This may be fine under most conditions. But can dependent states always rely on the preponderant power for spare parts and regular access? If weaker states do not collaborate and are unable to compete with the preponderant power by adopting an autarkic strategy, they will be forced into dependence. They will increasingly rely on the preponderant power for advanced weapons and systems, lose security of supply, and fail to maintain their technological capabilities. In short, the cost of not collaborating is greater dependence.

In Europe, collaboration decreases reliance on the United States and its defense industry. The concern among European states is that a failure to collaborate would raise Europe's reliance on the United States, which would have several implications. It would decrease the security of supply, especially for Europe's largest defense spenders—Germany, France, and Britain; weaken their industrial bases; and decrease their ability to develop cutting-edge technology. It might also increase the ability of the United States to cut off weapons

[14] John Rose, "New Structure, New Programmes, Bright Future," 4 July 1999, comment on the situation of the aerospace industry at the annual AECMA press conference, accessed at www.aecma.org/stats/speech, 21 April 2006.

[15] Bernard Gray, "Financial Strength Is the Issue Not Competition," *Financial Times*, 4 November 1991, 18.

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or supplies in an emergency. This is particularly acute in some areas, such as global satellite navigation systems, in which the United States controls supply. As a European Commission report concluded: "There is a danger that European industry could be reduced to the status of sub-supplier to prime US contractors, while the key know-how is reserved for US firms."[16] If Europe does not aggregate defense resources, President Jacques Chirac warned, it risks "vassal status" to a preponderant United States.[17] As another European Commission document noted: "If the EU finds it necessary to undertake a security mission that the US does not consider to be in its interest, [the EU] will be impotent unless it has the satellite navigation technology that is now indispensable."[18]

The 1991 Persian Gulf War, 1995 war in Bosnia, and 1999 war in Kosovo were stark reminders that European countries were largely dependent on U.S. power to conduct even modest military operations. For example, the British House of Commons Defence Committee concluded in its report on the lessons of Kosovo that the operation demonstrated how reliant Europe was on U.S. power.[19] The British Ministry of Defence's document *European Defence* argued that Europe should develop its own regional defense capabilities: "As the lessons of Kosovo showed ... European nations need significantly to improve their military capabilities. They should not continue to depend so heavily on the United States in dealing with crises in and around Europe. Europe needs to improve its ability to act in circumstances where NATO is not engaged."[20]

[16] *Towards an EU Defence Equipment Policy*, COM (2003) 113 Final (Brussels: Commission of the European Communities, 2003), 11.

[17] Martin Fletcher, "Europe's Galileo Navigation System Puts US on the Spot," *Times*, 26 March 2002. On the U.S. and the European defense industries, also see Alain Richard, "European Defense" (speech at the Symposium of the Association Diplomatie et Defense, Washington DC, Embassy of France in the United States, 18 April 2001).

[18] Dee Ann Divis, "Military Role for Galileo Emerges," *GPS World* 13 (May 2002): 10. On the military uses of Galileo also see *Space: A New European Frontier for an Expanding Union* (Brussels: Commission of the European Communities, 2003); Michael A. Taverna, "European Union's New Space Role Could Help Meet Military Goals," *Aviation Week & Space Technology* 27 (November 2000): 29; "Military Pushes for Galileo," *Aviation Week & Space Technology*, 18 (February 2002): 28.

[19] *Lessons of Kosovo*, Fourteenth Report (London: Her Majesty's Stationery Office, 2000), para. 313. Also see Elizabeth Pond, "Kosovo: Catalyst for Europe," *Washington Quarterly* 22 (Autumn 1999): 77–92; Christopher Layne, "Death Knell for NATO? The Bush Administration Confronts the European Security and Defense Policy," *Policy Analysis* 4 (April 2001): 1–15; Mary Elise Sarotte, *German Military Reform and European Security*, Adelphi Paper 340 (London: International Institute for Strategic Studies, 2001), 54.

[20] *European Defence*, Paper No. 3 (London: Ministry of Defence, 2001). On British policymakers and the U.S./NATO commitment, also see Gilles Andreani, Christoph Bertram, and Charles Grant, *Europe's Military Revolution* (London: Centre for European Reform, 2001), 11; *Defense Policy 2001* (London: Her Majesty's Stationery Office, 2001), para. 19; Alister John Miskimmon, "Recasting the Security Bargains: Germany, European Security Policy and the Transatlantic Partnership," *German Politics* 10 (April 2001): 90.

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If EU states and defense firms have aggregated resources in response to structural conditions, we should expect to see at least two things. First, we should see an increase in intra-European defense collaboration in the post-Cold War era. This should contrast with European collaboration during the Cold War, which should be transatlantic because balancing the Soviet Union was their primary focus. Second, intra-European collaboration should be causally linked with a desire to decrease reliance on the United States and increase their relative power and competitiveness. That is, European states would not take these actions if the United States—and U.S. defense firms—were not so powerful. To sum up, we should expect the following:

- During the Cold War, transnational weapons collaboration should largely be transatlantic rather than intra-European. Because the international system was bipolar, European states and defense firms should be primarily concerned about balancing the USSR and collaborating with the United States.
- During the post-Cold War era, transnational collaboration should largely be intra-European. Because the international system is unipolar, European states should be concerned about U.S. power and collaborate with each other.

The Defense Production Data

The next step is to examine the data on European weapons production. The Defense Budget Project's Globalization Database includes data on all cases ($N = 478$) of collaboration involving European defense firms between 1961 and 2000 in the following areas: M&As, coproduction projects, and codevelopment projects. Because we are particularly interested in examining trends in transnational weapons collaboration, the cases are divided into three categories: intra-European, European–U.S., and European–other. This allows us to see which firms European defense companies collaborated with.

First, *intra-European* includes transnational collaboration among defense firms from European Community (EC) and EU countries. Collaboration involving defense firms from such European countries as Switzerland were excluded if they were not members of the EC or EU, and were coded as "European–other." Examples of intra-European collaboration include cases of bilateral cooperation such as Thomson-CSF's (France) acquisition of Link-Miles (Britain) in the 1980s, as well as multilateral cooperation, such as German, Italian, and British cooperation in developing and producing the Tornado multi-role fighter aircraft in the 1970s. Second, *European–U.S.* involves collaboration between defense firms from the United States and EU countries. Examples include Raytheon's (U.S.) acquisition of Anschuetz (Germany) in the 1990s, as well as NATO collaboration on Seasparrow surface-to-air missiles in the 1960s. Third, *European–other* refers to bilateral and multilateral collaboration between de-

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fense firms from EU countries and other regions—Asia, Latin America, Africa, the Middle East, and Eastern Europe.

There are at least two limitations with the data. First, it does not include domestic M&As and coproduction and codevelopment projects. It might be interesting to know, for example, the total number of defense M&As within Germany between 1961 and 2000. This would allow us to examine how often German firms merged with or acquired other German firms, and to compare these figures with transnational M&As. Because the data does not include information on domestic activity, it has little to say about whether European states are becoming more or less interdependent. However, this is not a major problem; the primary focus of this article is on transnational defense cooperation. When European states and defense firms choose to collaborate abroad, with whom are they collaborating?

Second, the data does not include the monetary value of M&As and coproduction and codevelopment projects. Although it would be useful to have this information, much of it does not exist. For M&As in which both companies are private firms, there are no requirements to report specific information about the deal—including financial data. For M&As involving a combination of public and private firms, the likelihood that financial data will be publicly available varies, depending on the size of the M&A and company reporting practices. The data also does not include the value of coproduction and codevelopment projects. These values are not included, because they present enormous measurement problems. The total cost of transnational weapons and systems incorporates an amalgam of research, development, and production costs from multiple countries that span the life of the project. The data is often classified and unavailable. While it would be helpful to have the value of collaboration cases, it is not an insurmountable problem. Examining the number of cases and the motivations of European leaders should provide a fairly reliable picture of the European defense industry.

Cold War Cooperation

As Figure 1 illustrates, European defense firms were more likely to collaborate with American defense firms on coproduction and codevelopment projects than with other European firms during the Cold War. In addition, European defense firms were more likely to consolidate with American than European firms through M&As. The reason is largely tied to the structure of the international system.

During the bipolar Cold War, European states were concerned about balancing the Soviet Union. They were more likely to cooperate with the United States to improve NATO interoperability and standardization in case of a war with the Soviet Union. The emerging parity in strategic forces between the United States and the USSR meant that NATO countries needed to rely on a coordinated military capability to meet a surprise Soviet attack. "West Berlin,

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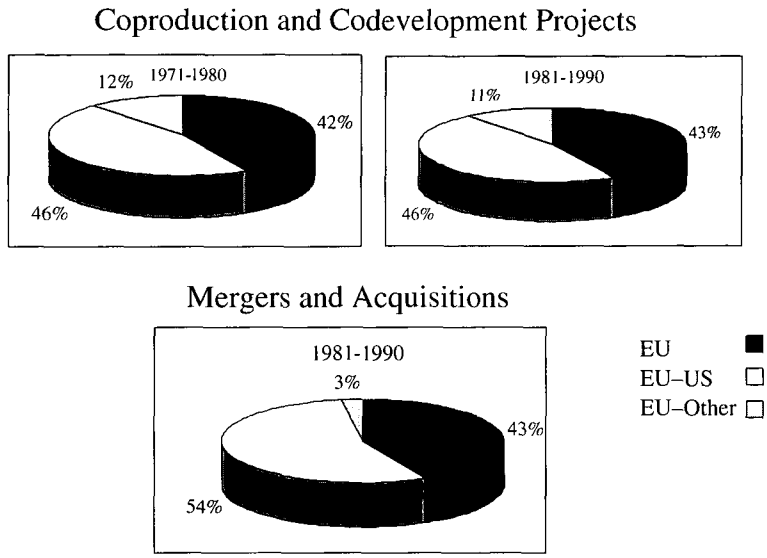
FIGURE 1
Cold War Defense Cooperation



Source: Defense Budget Project's Globalization Database; thanks to Richard Bitzinger for providing access to the database.

which has frequently enough been subject to political pressure by the Soviet Union and her allies, is particularly vulnerable. It is under a permanent threat," argued Germany's 1970 *White Paper*. "The effectiveness of the Alliance is contingent upon the harmonization of military resources which, in turn, permits their coordinated employment in case of an emergency; national elements alone will not do."[21] In addition, transatlantic defense collaboration helped tie the United States to Europe. British leaders, for example, preferred a long-term U.S. commitment to Europe to balance Soviet power; European states were too weak to do it by themselves. The importance of collaboration with the United States was seconded by German, Dutch, Belgian, and a number of other European leaders.[22] To make U.S. promises more credible, this meant U.S. participation in collaborative defense projects, M&As, as well as the presence of U.S. military forces.

[21] *White Paper 1970: The Security of the Federal Republic of Germany and the Development of the Federal Armed Forces* (Bonn: Federal Minister of Defence, 1970), 20–21, 25.

[22] "Jebb to Younger, September 12, 1950," in Roger Bullen and M.E. Pelly, eds., *Documents on British Policy Overseas, 1950* Series II, Vol. III (London: Her Majesty's Stationery Office, 1986), 28–31; "Cabinet meeting held at 10 Downing Street, November 16, 1950" in Bullen and Pelly, eds., *Documents on British Policy Overseas*, 263–266. Also see, for example, Dirk U. Stikker, *Men of Responsibility: A Memoir* (New York: Harper & Row, 1965), 303–304; Paul-Henri Spaak, *The Continuing Battle: Memoirs of a European, 1936-1966* (London: Weidenfeld and Nicolson, 1971), 150; Konrad Adenauer, *Memoirs, 1945-53* (Chicago, IL: Henry Regnery, 1966), 320.

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NATO Collaborative Projects

In 1949, NATO established a Military Production and Supply Board to coordinate production, standardization, and technical research in the weapons industry. After a number of modifications, this body became the Defense Production Committee in 1954 to supervise joint production programs and promote the standardization of weapons. In the late 1960s, NATO established the Conference of National Armaments Directors to promote transatlantic projects and exchange information on operational requirements and national equipment plans. The result of this collaboration included at least fourteen NATO projects by 1976, such as the Jaguar and Tornado aircraft, the Milan missile, and the rolling airframe missile (RAM) air defense system. Other examples included German-American codevelopment of the RAM air defense system and British–American codevelopment of the Harrier fighter aircraft.

In France, limited NATO codevelopment and coproduction projects were supported by the French government to counter Soviet military power.[23] The government's *Délégation Ministérielle de l'Armement* (DGA) was responsible for defense procurement, industrial liaison, and equipment collaboration, and largely determined the shape of the French defense industry. As Army General Guy Méry argued, NATO cooperation in a war with the Soviet Union "would pose a certain number of problems which we are trying to solve gradually." One of the most significant was the "problem of differences in procedures, equipment and tactical methods, which leads us to seek a certain interoperability of forces and to carry out exercises with Allied forces which are also extremely beneficial for training our own units."[24] Examples of French involvement in transatlantic cooperation included the Multiple Launch Rocket System, a mobile automatic all-weather system used as NATO's standard rocket; the NH-90, a multi-role medium helicopter designed as NATO's helicopter for the 1990s; and the CFM turbofan engine, produced jointly by France's Société Nationale d'Etude et de Construction de Moteurs d'Aviation (SNECMA) and the U.S.'s General Electric and used to power the KC-135 refueling tanker.[25]

[23] On French armaments policy, see Marc Cauchie, "Coopération internationale dans le domaine des armaments," *Défense Nationale* 36 (June 1980): 25–42; Marc Defourneaux, "France and a European Armament Policy," *NATO Review* 5 (September–October 1979): 19–25; Marc Defourneaux, "Indépendence nationale et coopération internationale en matière d'armements," *Défense Nationale* 35 (February 1979): 35–48; Marc Defourneaux, "Coopération et indépendance technologique," *Défense Nationale* 39 (March 1983): 105–118.

[24] General Guy Méry, "Une armée pour quoi faire et comment?" *Défense Nationale* 32 (June 1976): 17. Also see General Guy Méry, "French Defence Policy," *Survival* 18 (September/October 1976): 227.

[25] For the MLRS, see *Jane's Weapons Systems, 1987-88* (London: Jane's Information Group, 1988), 128–129. For the NH-90, see *Jane's All the World's Aircraft, 2002-2003* (London: Jane's Information Group, 2003), 255–258. For the CFM turbofan engine, see *Jane's Aero-Engines* (London: Jane's Information Group, 2002).

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British leaders were also willing to pursue limited transatlantic collaboration in weapons procurement to improve NATO power and efficiency. British Secretary of State for Defence Roy Mason argued that the advantage of weapons collaboration was substantial.[26] This view dovetailed with Britain's grand strategy during the Cold War, which supported NATO cooperation as one of the country's fundamental security tenets. As the 1970 *Supplementary Statement on Defence Policy* argued: "The security of Britain rests on the strength of the North Atlantic Alliance. The maintenance and improvement of our military contribution to NATO remains the first priority of our defence policy."[27] Britain's involvement in transatlantic collaboration during the Cold War included a number of projects, such as joint production of the Sky Flash/AIM-7 medium-range air-to-air missile; the advanced short-range air-to-air missile (ASRAAM); and the AV-8B Harrier attack and reconnaissance aircraft. All three involved close cooperation with American defense firms: Raytheon with the Sky Flash, Hughes with the ASRAAM, and McDonnell Douglas with the Harrier. British defense officials argued that procurement collaboration along transatlantic lines was important to increasing economic and military efficiency, and they were primarily responsible for pushing transatlantic cooperation.

In West Germany, NATO cooperation was particularly important because West Berlin was a major point of contention between the United States and the USSR. West Germany's geographic location meant that a conventional war between NATO and Warsaw Pact countries would likely be fought on its soil.[28] "The armament of the Bundeswehr is determined by its mission within the Alliance," noted the 1971/1972 *White Paper*.[29] German defense officials pursued coproduction and codevelopment projects within the context of NATO to increase the alliance's military power and fighting effectiveness.[30] Consequently, West Germany was involved in transatlantic coproduction and codevelopment projects during the Cold War. Germany's Ministry of Defense and its procurement agency, the Bundesamt für Wehrtechnik und Beschaffung, were largely responsible for selecting, approving, and overseeing transnational collaboration projects—not German defense firms.[31] Notable examples in-

[26] Roy Mason, "Setting British Defence Priorities," *Survival* 17 (September/October 1975): 221–222.

[27] *Supplementary Statement on Defence Policy*, Cmnd. 4521 (London: Her Majesty's Stationery Office, 1970).

[28] Marc Trachtenberg, *A Constructed Peace: The Making of the European Settlement, 1945-1963* (Princeton, NJ: Princeton University Press, 1999).

[29] *White Paper 1971/1972: The Security of the Federal Republic of Germany and the Development of the Federal Armed Forces* (Bonn: Federal Minister of Defence, 1971/1972), 149–150. Also see the *White Paper 1973/1974: The Security of the Federal Republic of Germany and the Development of the Federal Armed Forces* (Bonn: Federal Minister of Defence, 1973/1974), 179.

[30] *White Paper 1985: The Situation and Development of the Federal Armed Forces* (Bonn: Federal Minister of Defence, 1985), 367.

[31] Regina H.E. Cowen, *Defense Procurement in the Federal Republic of Germany: Politics and Organization* (Boulder, CO: Westview Press, 1986).

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cluded development of the Seasparrow surface-to-air missile, a joint NATO project to provide ships with an effective surface-to-air anti-missile defense. It also included the RAM air defense system, designed by the United States and Germany to enable surface ships to engage incoming anti-ship cruise missiles.

Transatlantic Mergers and Acquisitions

Transnational M&As also tended to be transatlantic rather than intra-European during the Cold War. Despite Charles de Gaulle's establishment of a nuclear *force de frappe* and partial withdrawal from NATO, French leaders believed that cooperation with NATO was important to balance against the Soviet Union. General Michel Fourquet, chief of staff of the armed forces, noted in March 1969 that a Soviet conventional attack from the east would require a coordinated response from NATO countries: "Engaged along the northern and eastern borders against an enemy coming from the East, the [French] force will normally act in close coordination with the forces of our allies."[32] One aspect of NATO cooperation involved transatlantic M&As. For example, Thomson-CSF acquired such U.S. defense firms in the 1980s as Ocean Defense Corporation, which manufactured helicopter sonar and equipment for antisubmarine warfare, and Wilcox Electric, which produced microwave landing systems. In the aerospace industry, a series of domestic and transatlantic mergers established Dassault-Breguet as one of NATO's primary producers of military aircraft, including the Mirage series of fighter aircraft and the Atlantique reconnaissance aircraft.

In Britain, there were a limited number of transnational M&As during the Cold War, and most were transatlantic. Examples of transatlantic M&As involving British firms included British Aerospace's acquisition of such U.S. firms as Nanoquest, Sperry Gyroscope, Reflectone, and Steinheil Optronics. Furthermore, Plessey acquired several U.S. firms, such as Electronic Systems Division, Leigh Instruments, Nash Engineering, Sippican, and Singer Electronics. In the wake of British Prime Minister Margaret Thatcher's decision to privatize the British defense industry in the 1980s, firms such as British Aerospace "were encouraged to adopt an international orientation," especially among NATO countries.[33] Transatlantic M&As were acceptable because they facilitated NATO's fighting effectiveness.

In West Germany, transatlantic defense consolidation through M&As was important because of the Soviet threat. "The military aim is the [NATO]

[32] See General Michel Fourquet, "Emploi des différents systèmes de forces dans le cadre de la stratégie de dissuasion," *Revue de défense nationale*, 25 (May 1969): 757–767. On French military independence, also see the "Loi de Programme 1971-1975" in Dominique David, ed., *La politique de défense de la france: Textes et documents* (Paris: Fondation Pour les Etudes de Défense Nationale, 1989).

[33] Trevor Taylor, "The British Restructuring Experience" in Brzoska and Lock, eds., *Restructuring of Arms Production*, 87.

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standardization of military equipment and procedures," argued the 1984 German *White Paper*.[34] Consequently, the German government encouraged some transatlantic M&A activity during the Cold War. For instance, Daimler-Benz acquired the industrial automation systems division of the U.S. firm Gould, and Siemens acquired U.S. defense firms Bendix and Cardion.[35]

In sum, European codevelopment, coproduction, and M&A behavior during the Cold War is explained by the structure of the international system. There was less intra-European collaboration during the Cold War, because European states were primarily concerned about balancing the USSR through NATO. As one study in 1977 rather bluntly concluded: "Despite a number of successful joint projects involving two or sometimes three countries, all attempts so far to produce a sustained and collective European effort have failed."[36]

The Rise of Europe

The structural shift from bipolarity to unipolarity caused a notable shift in the European defense industry. As Figure 2 illustrates, there has been a substantial increase in intra-European codevelopment and coproduction weapons projects in the post-Cold War era. This marks a stark contrast from the Cold War. The percentage of intra-European projects increased from 42 percent and 43 percent in the 1970s and 1980s, respectively, to 57 percent in the 1990s. European defense firms have been almost twice as likely to pursue coproduction and codevelopment projects with each other than with U.S. firms, and over three times more likely than with defense firms from other regions. In addition, there has been a substantial increase in intra-European defense mergers and acquisitions in the post-Cold War era. The percentage of intra-European M&As increased from 43 percent in the 1980s to 55 percent in the 1990s, and the percentage of EU–US M&As decreased from 55 percent in the 1980s to 32 percent in the 1990s. European defense firms have been nearly twice as likely to pursue M&As with each other than with American defense firms, and nearly three times as likely to pursue M&As with each other than with firms from other regions.

The changing structure of the international system explains the shift to intra-European defense cooperation. In a unipolar system, European Union states led by Germany, France, and Britain have collaborated in the defense industry to decrease reliance on the United States and to increase their own economic and defense power. To be clear, European states are not pursuing neorealist balance-of-power politics; the United States does not present a military threat to Europe. Rather, collaboration decreases reliance on the United States and its defense

[34] *White Paper 1985*, 360.

[35] See, for example, "Gould to Sell Unit to AEG," *New York Times*, 3 May 1988; Michael Farr, "A 'Sleeping Giant' Goes Global," *New York Times*, 12 December 1988.

[36] D.C.R. Heyhoe, *The Alliance and Europe: Part VI, The European Programme Group*, Adelphi Paper 129 (London: International Institute for Strategic Studies, 1976/1977), 1.

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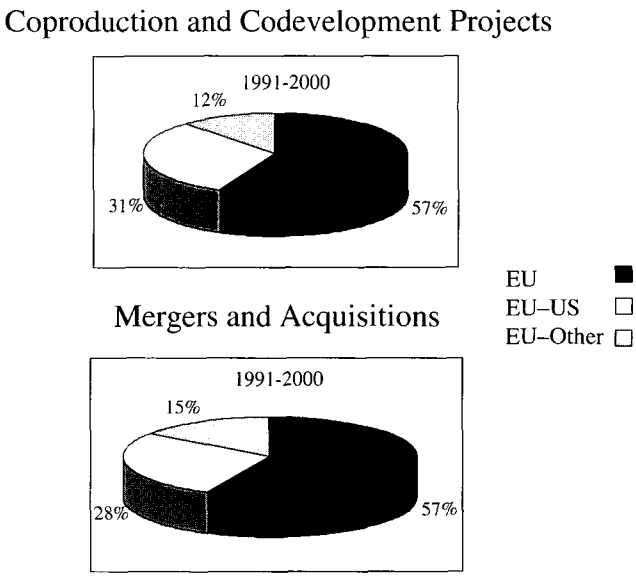
FIGURE 2
Post-Cold War Defense Cooperation



Source: Defense Budget Project's Globalization Database; thanks to Richard Bitzinger for providing access to the database.

industry, and ensures that European states have autonomous military capabilities. In addition, collaboration increases the global power of European defense firms and allows them to compete more effectively with the United States in such areas as arms sales and the spin-offs that defense industries can produce.

Creating Fortress Europe

The structural shift from bipolarity to unipolarity caused a notable shift in the procurement behavior of European states. Although most coproduction and codevelopment projects during the Cold War were transatlantic and geared toward NATO cooperation, there was a substantial increase in the number and percentage of intra-European projects in the 1990s. In the absence of the Soviet threat, EU states became increasingly concerned about U.S. dominance of the arms market. British and French leaders concluded at the 1998 St. Malo summit: "The European Union needs to be in a position to play its full role on the international stage. ... To this end, the Union must have the capacity for *autonomous* action, backed up by credible military forces, the means to decide to use them and a readiness to do so, in order to respond to international crises."[37]

[37] Text of a joint statement by the British and French governments, Franco-British summit, St. Malo, France, 4 December 1998. Emphasis added.

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The risk of not collaborating was high. The European Advisory Group on Aerospace, which included such participants as the EU High Representative for Common Foreign and Security Policy and European aerospace industry chairmen, argued in a report titled *Strategic Aerospace Review for the 21st Century* that the failure to pursue intra-European collaboration would lead to U.S. dominance of the European arms market. "Unless Europe maintains these capabilities and develops them further," it contended, "there is a real risk that Europe's ability to act will be determined by the US through its dominance over the supply of certain types of equipment, or support to systems already delivered."[38] A similar report concluded that "there is a danger that European industry could be reduced to the status of sub-supplier to prime US contractors, while the key know-how is reserved for US firms."[39]

In France, the DGA played the central role in pushing for intra-European collaboration. As laid out in its yearly *Rapport d'activité*, the DGA argued that collaboration was important to increasing European power and military effectiveness.[40] The power of the U.S. defense industry also provided a critical impetus. As the Ministry of Defense's *Projet de loi* explained: "[The U.S.'s] global intention demands a massive reinforcement of the defense effort, which in turn benefits research and development of new defense systems, increasing the technological and military gulf between Europe and the United States." In response to U.S. power, it continued, France and Europe needed to "include an increase in defense effort" in such areas as weapons production.[41] This made projects such as the Galileo global navigation satellite system important so that, in the words of France's transport minister, "the European Union [could] liberate itself from dependence on the American GPS system."[42] Consequently, the DGA worked closely with the governments of Britain and Germany to coordinate long-term procurement planning, future preparedness, and research and technology.[43] Examples of French involvement in intra-European projects in the post-Cold War era included Galileo, the 140-mm tank gun, the PAAMS main missile system, the Europatrol combat ship, the MU-90 torpedo, and the Horizon frigate.

In Britain, Ministry of Defence officials also pushed for intra-European collaboration to build economic and military power. As the Ministry of De-

[38] European Advisory Group on Aerospace, "Strategic Aerospace Review for the 21st Century: Creating a Coherent Market and Policy Framework for a Vital European Industry" in Burkhard Schmitt, ed., *European Armaments Cooperation: Core Documents*, Chaillot Paper 59 (Paris: Institute for Security Studies, 2003), 152.

[39] *Towards an EU Defence Equipment Policy*, COM (2003) 113 Final (Brussels: Commission of the European Communities, 2003), 11.

[40] *Rapport d'activité 2000* (Paris: Délégation générale pour l'armement, 2000), 38.

[41] *Projet de loi de programmation militaire 2003-2008* (Paris: Ministère de la Défense, 2002).

[42] Ian Black, "European Satellite Plan Ruffles US Feathers," *Guardian*, 27 March 2002, 17; Thomas Fuller, "EU Positions Its Challenge to GPS," *International Herald Tribune*, 27 March 2002, 1.

[43] *Rapport d'activité 2001* (Paris: Délégation générale pour l'armement, 2001), 48–51.

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fence's *Defence Industrial Policy* argued: "The US is the most important creator of new defence technology, and there is an increasing disparity between its defence spending and that of Europe." In response to U.S. power and to the U.S. government's establishment of barriers to entry into its defense market, the British Ministry of Defence argued that "there are significant potential benefits to be gained from a better functioning European market, a more efficient supplier base, and better prioritization of research and technology budgets in Europe."[44] Although British policymakers supported transatlantic collaboration during the Cold War, and have engaged in some projects with U.S. firms, they have favored European codevelopment and coproduction projects in the post-Cold War era. Ministry of Defence documents have been explicit about this.[45] Examples of British involvement in intra-European weapons collaboration included the Storm Shadow land attack cruise missile, the MRAV armored vehicle, and the Europatrol maritime patrol aircraft.

German leaders likewise advocated European procurement cooperation to aggregate power, and they pushed for greater intra-European collaboration.[46] As former German Chancellor Gerhard Schroder argued:

> Europe would not have an internationally successful aircraft industry had not some countries shown the will to challenge US dominance. Airbus's success shows the importance of setting strategic priorities. Galileo, the European satellite system agreed at the recent Barcelona European summit, is another such example. In short, Europe needs to become better at pooling resources and working towards a strategic vision.[47]

German Ministry of Defense documents have explicitly argued that intra-European weapons collaboration is critical to improving European economic and military power—particularly in light of the creation of a Common Foreign and Security Policy and a European Security and Defense Policy.[48] The army report *Bundeswehr 2002: Sachstund und Perspektiven* contends that European weapons cooperation is an integral part of the Common Foreign and Security Policy and "occupies a key position in the efforts to consolidate the political unification of Europe."[49] Indeed, Germany has been one of the strongest supporters of European armaments collaboration, and German de-

[44] *Defence Industrial Policy*, Paper No. 5 (London: Ministry of Defence, 2002), 9.

[45] See, for example, *European Defence Policy*, Paper No. 3 (London: Her Majesty's Stationery Office, 2001); *The Defence White Paper, 1999*, Cmnd. 4446 (London: Her Majesty's Stationery Office, 1999), para. 99–103; *The Strategic Defence Review, 1998*, Cmnd. 3999 (London: Her Majesty's Stationery Office, 1998), para. 162–168.

[46] See, for example, Mary Elise Sarotte, *German Military Reform and European Security*, Adelphi Paper 340 (London: International Institute for Strategic Studies, 2001), 48–52.

[47] Gerhard Schroder, "Shaping Industry on the Anvil of Europe," *Financial Times*, 29 April 2002, 21.

[48] *The Bundeswehr—Advancing Steadily into the 21st Century* (Berlin: The Federal Minister of Defence, 2000), para. 48; *White Paper 1994* (Bonn: Federal Minister of Defence, 1994), para. 594.

[49] *Bundeswehr 2002: Sachstand und Perspektiven* (Berlin: Bundesministerium der Verteidigung, 2002), 22.

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fense firms have been involved in almost every major coproduction and co-development project in the post-Cold War era. Examples include the Galileo global navigation satellite system, the Eurofighter combat aircraft, the Taurus precision-guided weapon, the A400M strategic lift, and the Trigate anti-tank guided missile.

In addition, two projects neatly illustrate how the changing structure of the international system created a strong incentive for intra-European collaboration: Galileo and the A400M strategic lift.

European governments began development of the Galileo global navigation satellite system in the late 1990s to aggregate power and decrease reliance on the United States.[50] European governments could have continued relying on the U.S.'s global positioning system (GPS) for navigation, but they became increasingly concerned about the security of supply. "Only the USA (GPS) and Russia (Glonass) currently have this technology, both being financed for military purposes, with the result that the signals can be blocked or jammed at any moment to protect these countries' own interests," noted a European Commission's *White Paper* on European transport policy. "This happened during the Kosovo war, when the United States cut the GPS signal. ... Europe cannot afford to be totally dependent on third countries in such strategic areas."[51] Consequently, in 1999, European governments began development of Galileo, which is composed of thirty satellites and ground stations that provide information on the positioning of users in such sectors as defense and transport.

European governments agreed to develop and produce the A400M strategic transport plane in the late 1990s to facilitate the undertaking of European military operations. In the early 1990s, policymakers initiated a study of alternative options for replacing their aging fleets of C-130 Hercules and C-160 Transall strategic transport planes. One possibility was to purchase Boeing C-17s and updated Lockheed Martin C-130s, but European military leaders did not want to rely on the United States for security of supply. Consequently, the armaments directors of several European countries—including France, Germany, and Britain—began a series of feasibility studies to develop a European transport plane. In June of 2001, they signed a memorandum of understanding to develop the A400M because "it generates the necessary potential for harmonizing operational and support arrangements" and "paves the way for greater task sharing in meeting European military air transport demands."[52] The A400M was specifically designed for European operations to

[50] On Galileo and transatlantic relations, see David Braunschvig, Richard L. Garwin, and Jeremy C. Marwell, "Space Diplomacy," *Foreign Affairs* 82 (July/August 2003): 156–164.

[51] *White Paper—European Transport Policy for 2010: Time to Decide* (Luxembourg: Office for Official Publications of the European Communities, 2001), 94–95. Also see *Inception Study to Support the Development of a Business Plan for the GALILEO Programme*, TREN/B5/23-2001 (Brussels: PricewaterhouseCoopers, 2001).

[52] "Press release for the signature ceremony of the A400M program," 19 June 2001, Ministère de la défense de la France, accessed at www.defense.gouv.fr, 21 April 2006.

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include all equipment—such as European armored vehicles, missile systems, helicopters, and trucks—likely to be needed for joint rapid reaction forces.[53] In sum, European governments were the primary proponents of the A400M because it decreased reliance on the United States and increased EU power.

In addition, in 2004, the European Council established the European Defense Agency to improve European military capabilities, consolidate defense research and technology, and promote armaments cooperation. It is leading or managing several current initiatives:

- UAVs and ISTAR—Developing technology demonstration work on long-endurance unmanned aerial vehicles (UAVs), in the context of the development of wider intelligence, surveillance, target acquisition, and reconnaissance (ISTAR) capabilities.
- Command, control, and communication—Finding solutions to current European Security and Defense Policy operational shortfalls and developing capacity and interoperability for the future.
- Armored fighting vehicles—Developing proposals for collaborative technology development and procurement programs based on a review of future requirements and the relevant technological and industrial base.
- Commercial and military off-the-shelf equipment—Developing proposals for a European market in commercial off-the-shelf/military off-the-shelf equipment, including a feasibility study of an "electronic market place."[54]

The Race for Critical Mass

The structural shift from bipolarity to unipolarity at the end of the Cold War also marked a significant shift in European M&A activity. European states adopted a procurement policy that stressed intra-European collaboration in the post-Cold War era to decrease reliance on the United States and increase European power abroad. As one study concluded, in the post-Cold War era, "the perception of an American 'threat' was widespread in politico-industrial circles in Europe. ... Faced with the new American giants, national champions in Europe were obliged to launch into a race for critical mass."[55] Perhaps the most significant example was the creation of the European Aeronautic, Defense, and Space (EADS) company. It included the merger of Germany's Daimler-

[53] "Hoon Welcomes Progress on A400M," December 18, 2001, accessed at www.mod.uk/dpa/pressoffice, 21 April 2006.

[54] Council Joint Action on the Establishment of the European Defense Agency, 2004/551/CFSP, 12 July 2004; *Agency in the Field of Defense Capabilities Development, Research, Acquisition, and Armaments* (Brussels: Council of the European Union, 2004); *EDA Work Programme for 2005* (Brussels: European Council, 2004); Nick Witney, "Closing the Capability Gap: The EDA's Role as Catalyst and Coordinator" (presentation at the Royal Institute for International Affairs, London, 6 December 2004).

[55] Burkard Schmitt, *From Cooperation to Integration: Defense and Aerospace Industries in Europe* (Paris: Institute for Security Studies, 2000), 25–26.

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Chrysler Aerospace, Spain's Construcciones Aeronáuticas SA, and France's Aérospatiale Matra. Again, national governments played a pivotal role in pushing for a transnational European weapons industry. European defense firms were almost twice as likely to pursue M&As with each other than with American firms, and nearly three times as likely than with firms from other regions.

A significant part of this rationale was the creation of several giant and globally competitive U.S. defense firms. The U.S. defense industry consolidated in the early 1990s and produced a number of firms led by Lockheed Martin and Boeing that threatened to dominate the global arms market and jeopardize other states' security of supply. During what has been referred to as the "Last Supper," Secretary of Defense Les Aspin and Deputy Secretary William Perry invited a small number of defense industry executives to dinner at the Pentagon in 1993. After the dinner, Aspin and Perry announced that at least half the companies at the dinner would not be needed in five years, and warned that the Department of Defense was ready to see some firms exit the market. Because the U.S. defense budget was steadily decreasing in the wake of the Soviet collapse, U.S. government leaders pushed for consolidation to increase efficiency in the U.S. defense market and augment greater global competitiveness. Lockheed acquired the Fort Worth division of General Dynamics in 1993 and then merged with the missile manufacturer Martin Marietta in 1995 to form Lockheed Martin. Grumman was salvaged from near bankruptcy and acquired by Northrop in 1994. Boeing purchased McDonnell Douglas.[56] By the late 1990s, Lockheed Martin and Boeing were the dominant arms-producing firms in the world, with arms sales of $18.5 billion and $14.5 billion, respectively.[57] Furthermore, U.S. defense firms were the most technologically advanced in the world, and, as one scholar warned: "For the first time in modern history, one country [was] on the verge of monopolizing the international arms trade."[58]

U.S. consolidation in the 1990s caused deep concern in European capitals. As Thomas Enders, then CEO of defense and security systems at EADS, argued: "By 1996, in view of the mega-mergers in the US, it was clear to European industry leaders that national consolidation and joint ventures were inadequate counters to the competitive challenge being posed by US industry."[59]

[56] Erik Pages, "Defense Mergers" in Ann R. Markusen and Sean S. Costigan, eds., *Arming the Future: A Defense Industry for the 21st Century* (New York: Council on Foreign Relation, 1999), 207–223; Michael Oden, "Cashing In, Cashing Out, and Converting" in Markusen and Costigan, eds., *Arming the Future*, 74–105.

[57] *SIPRI Yearbook 1999: Armaments, Disarmament and International Security* (New York: Oxford University Press, 1999), 413.

[58] Ethan B. Kapstein, "America's Arms-Trade Monopoly," *Foreign Affairs* 73 (May/June 1994): 13. Also see Jens Van Scherpenberg, "Transatlantic Competition and European Defence Industries: A New Look at the Trade-Defence Linkage," *International Affairs* 73 (January 1997): 99–122.

[59] Thomas Enders, "Defense Industry Restructuring and the Implications of ESDI/DCI" (paper presented at the XVIIth International Workshop: On Political-Military Decision Making in the Atlantic Alliance, Berlin, Germany, 2–5 June 2000).

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In a December 1997 message to European defense firms, French President Jacques Chirac, British Prime Minister Tony Blair, and German Chancellor Helmut Kohl argued that they shared "a vital political and economic interest in an efficient and globally competitive European aerospace industry. This [would] help to improve Europe's position in the global market, to promote European security, and ensure that Europe [would] play a full role in its defense." One important step in this direction, they contended, was consolidation of the defense industry along European lines: "We are agreed on the urgent need to restructure the aerospace and defense electronics industries. This should embrace civil and military activities in the field of aerospace, and should lead to European integration based on balanced partnership."[60] A year later, the defense ministers of France, Germany, Britain, Italy, Spain, and Sweden signed the Letter of Intent to facilitate the restructuring of the European defense industry.[61] Furthermore, the European Advisory Group on Aerospace argued, in its *Strategic Aerospace Review for the 21st Century*, of the critical need to compete with the United States:

> As regards international competition, US companies operate in the world's single largest home market and benefit from a highly supportive operation framework which is designed to underpin a declared policy aim to maintain US supremacy in aerospace. ... This situation poses a constant challenge to European industry and cannot but affect its competitive position. ... Within Europe major restructuring has taken place in recent years, leading to an industry organized on a European scale, as a competitor and partner of its powerful US counterpart.[62]

As Table 2 highlights, by 2005, Europe had four of the top ten largest defense firms in the world: BAE Systems, Thales, EADS, and Finmeccanica. This marked a notable change from 1993, when Europe had only two of the top ten firms.

In France, the DGA played the central role in encouraging defense industry consolidation along European lines. As laid out in its *Rapport d'activité*, the DGA argued that intra-European defense consolidation had occurred "with the encouragement of heads of State and government" to aggregate European power.[63] The power and impetus to pursue European consolidation

[60] "Joint Statement by the President of the Republic and the French Prime Minister, the Chancellor of the Federal Republic of Germany, and the Prime Minister of the United Kingdom," 9 December 1997. Published in Burkard Schmitt, ed., *Between Cooperation and Competition: The Transatlantic Defence Market* (Paris: Institute for Security Studies, 2001), 144.

[61] "Letter of Intent between the Minister of Defense of the French Republic, the Federal Minister of Defense of the Republic of Germany, the Minister of Defense of the Republic of Italy, the Minister of Defense of the Kingdom of Spain, the Minister of Defense of the Kingdom of Sweden, and the Secretary of State for Defense of the United Kingdom of Great Britain and Northern Ireland Concerning Measures to Facilitate the Restructuring of the European Defense Industry," 6 July 1998. Schmitt, ed., *Between Cooperation and Competition*, 146, 149.

[62] "Strategic Aerospace Review for the 21st Century," 131.

[63] *Rapport d'activité 2000*, 43.

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TABLE 2

Top Ten Largest Arms-producing Companies, 2005

Company	*Country*	*Arms Sales (US$ Million)*
Lockheed Martin	United States	24,910
Boeing	United States	24,370
Northrop Grumman	United States	22,720
BAE Systems	UK	15,760
Raytheon	United States	15,450
General Dynamics	United States	13,100
Thales	France	8,350
EADS	France, Germany, Spain	8,010
United Technologies	United States	6,210
Finmeccanica	Italy	5,290

Source: SIPRI Yearbook 2005: Armaments, Disarmament and International Security (New York: Oxford University Press, 2005).

came from the government, which held shares in several major defense firms, such as Dassault and SNECMA, and exercised decisive clout.[64] French Prime Minister Lionel Jospin noted, following the creation of EADS, that "in view of the formation of very large-scale international groups, particularly American ones, it was becoming vitally important to group together the European forces."[65] Examples of French involvement in intra-European M&As included Thomson-CSF's acquisition of the defense electronics business of the Philips group and the British firm Racal Electronics. Other examples included SNECMA's acquisition of the Belgian firm FN Moteurs, the Norwegian firm Norsk Jet Motors, and British TI Group's landing gear business. In short, as French Defense Minister Alain Richard summed up, intra-European defense consolidation increased Europe's ability "to gain shares in a highly competitive market."[66]

British Ministry of Defence documents in the post-Cold War era also noted the desire to increase power. The 1999 *White Paper*, for example, stated that the governments of France, Germany, Italy, Spain, and Sweden were coordinating policies to develop a consistent approach to restructuring in order to harmonize European military requirements.[67] Furthermore, it argued that European consolidation would lead to greater military effectiveness. British

[64] See the comments by Philippe Humbert, Vice President for International Development of SNECMA, in *European Defense Industrial Consolidation: Implications for U.S. Industry and Policy* (Washington DC: Center for Strategic and International Studies, 2001), 8. Also see Frédérique Sachwald, *Defence Industry Restructuring: The End of an Economic Exception* (Paris: Institut Francais des relations internationals, 1999), 45.

[65] "Jospin: Aerospatiale Matra-DASA Merger 'Powerful Tool,'" *Paris AFP*, 14 October 1999.

[66] Alain Richard, "European Defense" (speech given at the Annual Defence Dinner of the London Chamber of Commerce and Industry, London, 17 May 2001).

[67] *White Paper 1999* (London: Ministry of Defence, 1999), para. 100.

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Aerospace (renamed BAE Systems in 1999) was particularly active, acquiring a number of European companies, such as Heckler & Koch (Germany), a 30 percent stake in Saab (Sweden), and Muiden Chemie (Netherlands).

In Germany, defense officials advocated European M&As as a way to increase power.[68] The establishment of the transnational EADS in 1999 left Germany with *no major domestic defense company*. Rheinmetall, which produced ammunition and other defense equipment, was Germany's largest national firm measured in arms sales. That placed it twenty-third among firms from the Organisation for Economic Cooperation and Development and developing countries, well behind Europe's major defense giants such as British Aerospace, EADS, and France's Thales.[69] As German Defense Minister Rudolf Scharping argued, European governments had taken "major steps to establish new political and military structures and [to] develop more effective military capabilities for the full range of conflict prevention and crisis management tasks defined in the EU Treaty." One of the most important steps, he continued, was "the intensification of co-operation with the European defense industry, with the merger of DASA, Aerospatiale and CASA to form EADS lending the key impetus."[70]

Indeed, two M&A examples highlight the desire of EU states to aggregate resources to decrease reliance on the United States and increase European power. First, the establishment of EADS in 2000 was a significant step toward defense consolidation in creating a transnational European defense giant capable of competing with U.S. firms Boeing and Lockheed Martin. It could also produce a variety of advanced armaments, such as the Eurofighter combat aircraft, Eurocopter, A400M transport aircraft, and strategic weapons. As EADS joint executive chairmen Rainer Hertrich and Philippe Camus acknowledged: "Let us dare to assert it: EADS has, right at its birth, the scale of a European Boeing."[71] Moreover, French Defense Minister Alain Richard and Economy Minister Laurent Fabius jointly noted that the establishment of EADS "goes in line with the European policy promoting an autonomous defense industry that is globally competitive."[72]

Following the December 1997 declaration by French, German, and British leaders for regional consolidation, government and industry negotiations commenced regarding the creation of a European defense company. The defense ministers of Britain, France, Germany, Italy, Spain, and Sweden asked

[68] Martin Agüera, "German Arms Exporters Eye Mergers for Survival," *Defense News*, 17–23 September 2001, 32.

[69] *SIPRI Yearbook 2005: Armaments, Disarmament and International Security Studies* (New York: Oxford University Press, 2005), 406–407.

[70] Rudolf Scharping, "Euro-Atlantic Security and Regional Stability in the 21st Century" (Eisenhower lecture, NATO Defense College in Rome, 11 January 2000).

[71] Rainer Hertrich and Philippe Camus, "EADS or the Ambition to Make Europe Win," *Le Monde*, 8 June 2000.

[72] "Europe to Create World No. 2 Missiles Firm," *Xinhua General News Service*, 27 April 2001.

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several of Europe's major defense companies to submit a series of reports in March and November of 1998 outlining plans for the creation of a European aerospace and defense company.[73] The successive reports submitted by industry officials argued that the target should be a single, integrated European company that could produce weapons in a number of key defense sectors. Although the British government placed substantial pressure on British Aerospace to join EADS, company executives defied the government and merged with Marconi. This left German, French, and Spanish companies and government officials to negotiate a merger. In the summer of 1999, secret negotiations between the shareholders of Daimler-Chrysler the Spanish state holding company Sociedad Estatal de Participaciones Industriales, the Lagardère Group, and their respective governments eventually led to the creation of EADS.[74] French government officials such as Finance Minister Dominique Strauss-Kahn played a particularly important role in the negotiations. The result was the creation of one of Europe's largest defense companies, which produces a number of weapons and systems in such sectors as civil and military transport aircraft, combat and military mission aircraft, helicopters, space launchers, satellites, guided weapons, and defense and aerospace systems.

Second, the creation of MBDA in the late 1990s was a significant step toward consolidating European missile production under one roof and challenging the U.S. missile producer Raytheon.[75] As former chief executive Fabrice Brégier argued: "Raytheon is the world leader, and we respect that. But we believe we can challenge that position."[76] In 2002, it was the second-largest missile firm in the world behind Raytheon. MBDA produces guided weapons for land-based, naval, and airborne requirements such as the Meteor and ASRAAM air-to-air missiles, the Storm Shadow/Scalp long-range cruise missile, the Brimstone anti-armor weapon, and the Exocet anti-ship missile. European governments began pushing for consolidation in missile production in the late 1990s to improve interoperability and decrease reliance on the United States. These benefits were particularly important because of the increased prospects for intra-European military cooperation. Following negotiations between executives from British, Italian, and French missile companies and their respective governments, MBDA was established in 1999.

[73] Schmitt, *From Cooperation to Integration*, 29–56.

[74] A number of government officials were involved in the secret negotiations. John Rossant, "Birth of A Giant," *Business Week*, 10 July 2000, 170; Pierre Sparaco, "EADS Completes Europe's Long-Awaited Restructuring," *Aviation Week & Space Technology*, 24 July 2000, 103–109; Yolande Baldeweck and Vianney Aubert, "Aerospatiale Matra et Dasa fusionnent," *Le Figaro*, 15 October 1999.

[75] See, for example, Katia Vlachos-Dengler, *From National Champions to European Heavyweights: The Development of European Defense Industrial Capabilities Across Market Segments* (Santa Monica, CA: RAND, 2002), 63–74.

[76] Daniel Michaels, "European Missile Firm Targets Raytheon," *Wall Street Journal*, 1 August 2000, A18. Also see "Interview, Fabrice Brégier: 'Nous avons cree l'Airbus des missiles,'" *Les Echos*, 27 April 2001, 14.

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In sum, European M&A activity is best explained by a desire to decrease reliance on the United States and to increase European power. This marks a striking contrast with the Cold War, when transnational M&As occurred primarily along transatlantic lines. It also contrasts with M&A activity in non-defense sectors, since European companies concentrated more on global than regional consolidation in the post-Cold War era. As with coproduction and codevelopment projects, consolidation has been more frequent in aerospace than in land or naval systems.

The Future of Transatlantic Relations

There has been deep skepticism in the United States about the viability of European defense cooperation. Some of this has been warranted. European states spend far fewer resources on defense than does the United States, including in such areas as research and development programs. The defense spending gap between the United States and Europe has increased over the last several years from approximately $144 billion in 1999 to $224 billion in 2005.[77] In addition, European states continue to possess shortfalls in some areas, such as suppression of enemy air defense.

However, Europe has gradually established a more integrated and globally competitive defense industry. European states have been motivated by a desire to decrease reliance on the United States and to build European economic and defense power. As the historical evidence demonstrates, the structural shift to unipolarity has caused deep concern in European capitals about U.S. power. The transatlantic friction caused by the U.S.-led war in Iraq has only increased the European desire to develop independent defense capabilities. These have included the construction of European Union battle groups, a military planning capability independent of NATO, an EU military committee, and an EU military staff.

Will these developments in the defense industry continue in the future? If so, what will be the implications for transatlantic relations? Much depends on the structure of the international system. The current evidence suggests that the United States will remain the preponderant global power for the foreseeable future—including in the defense industry. As William Wohlforth and others have argued, the international system is unambiguously unipolar. The United States has an unprecedented quantitative and qualitative margin of superiority over the next most powerful state. It enjoys decisive preponderance in all major underlying components of power: economic, defense, technological, and geopolitical.[78] Even if one accepts the argument that the

[77] Accessed on the SIPRI Military Expenditure database at www.sipri.org, 21 April 2006. These figures are in U.S.$ millions at constant 2000 prices and exchange rates.

[78] William C. Wohlforth, "The Stability of a Unipolar World," *International Security* 24 (Summer 1999): 5–41.

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United States will inevitably decline in power, as great powers have historically done, it is difficult to conceive of this happening anytime soon.

Assuming that the United States remains the preponderant global power, this structural condition will cause EU states to continue collaborating in the defense industry. Indeed, the European defense industry will likely become more integrated over the next decade. For example, European states will likely continue to develop all-weather, precision-guided weapons, such as the Storm Shadow/Scalp cruise missile and the Taurus long-range stand-off missile. They will also likely place significant resources into space-based systems and technologies that will provide EU states with military capacities—such as monitoring troop movements, facilitating logistics planning, and improving targeting and munitions guidance—that can be performed independently of the United States. Many of these projects are currently in the research and development stage, and will provide European states a greater ability to jointly project power over the next decade. One of the biggest questions over the long run is whether European states can collaborate their procurement strategies through a robust and well-resourced European Defense Agency. This would mean that the European Union would have significant power to develop capabilities requirements; determine and promote defense research; and manage land, aerospace, and naval defense programs. The answer is not entirely clear. But recent trends suggest that Europe is moving in this direction.

The preponderance of U.S. power and the European response will likely speed up a drifting apart of the transatlantic relationship. This does not mean that the United States and Europe will become enemies. But it does mean that the stronger the EU becomes as a global international political, economic, and defense power, the more likely it is that it will be willing to stand up to the United States when it disagrees. For example, the establishment of a globally competitive defense industry and a more independent Europe may increase the likelihood that European firms will sell military-use systems and technologies to countries such as China, where the United States and Europe have different strategic interests. These developments would cause transatlantic frictions to increase even further. As Jacques Chirac has argued: "We want to live in a multipolar world, one with a few large groups enjoying as harmonious relations as possible with each other, a world in which Europe, among others, will have its full place."[79] What is significant is not that a French president would like to see a multipolar international system and an integrated Europe. Rather, it is that European states more broadly are making an integrated defense industry a reality.

[79] Peter Ford, "Europe's Fears of US Domination," *Christian Science Monitor*, 14 March 2003, 6.

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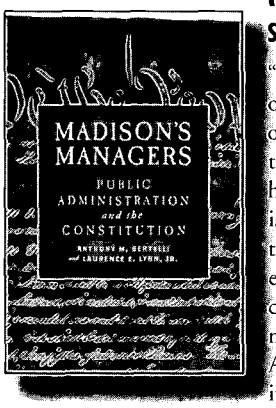
Madison's Managers

Public Administration and the Constitution

Anthony M. Bertelli and Laurence E. Lynn Jr.



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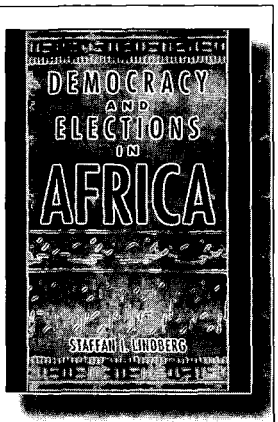

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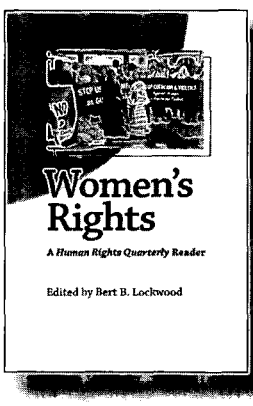

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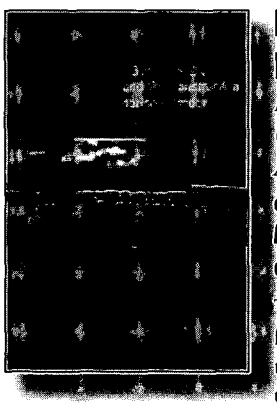

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U.S. Human Rights Policy in the Post-Cold War Era

JOHN W. DIETRICH

Historically, the implementation of U.S. human rights policy has been a case of "two steps forward, one step back." From its earliest days, the United States has attempted, at least to some degree, to include morality, the protection of individual rights, and the spread of democracy in foreign policy calculations. These efforts became more prominent after World War II. By the late 1980s, human rights concerns were firmly embedded in U.S. foreign policy rhetoric, policymaking institutions, and global actions. Despite these long-term trends, full policy implementation of human rights principles was constrained over time by lack of U.S. power, U.S. wariness of multilateral institutions and international legal commitments, competing policy priorities, and the limited institutional power of U.S. human rights advocates. The end of the Cold War and other contemporaneous international and domestic shifts appeared to finally remove these long-standing limitations. Now, a little more than a decade later, it is clear that human rights considerations have shaped recent policies in many ways. Strikingly, though, past limitations have persisted. The continuing existence of these limits shows that they were never short-term, era-specific problems, but rather deeper constraints that stem from the realities of global and domestic politics. Thus, although human rights considerations have become an important component of policy, those observers expecting a dominant role for human rights in U.S. foreign policy will always be disappointed and may fail to appreciate the progress that does occur.

Historic Trends

Massachusetts Bay Governor John Winthrop stated in 1630, "We shall be as a City upon a Hill, the eyes of all people are upon us."[1] This early expression of

[1] Quoted in David P. Forsythe, *American Exceptionalism and Global Human Rights* (Lincoln: University of Nebraska, 1998), 2.

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American exceptionalism and moralism was followed by many similar statements from early American leaders.[2] These views led some of them to promote "crusading interventionism" to spread liberty; others were led to advocate "complacent withdrawal from world affairs" to keep America free from the world's impurities.[3] Either way, human rights ideas had some impact on early policymakers. Those ideas and the crusading internationalist viewpoint gained new prominence after World War II. The United States rose to superpower status and worked with other countries and the United Nations to establish new global human rights standards.[4] In the 1970s, Congress and President Jimmy Carter placed even more focus on human rights and took steps to create the legislative and institutional framework that still guides U.S. human rights policy today.[5] In the 1980s, under President Ronald Reagan, significant changes in human rights policy occurred, but the underlying focus remained.[6]

At the same time as these positive developments, full implementation of human rights principles was constrained by various factors. The limitations included an early lack of power that restricted U.S. ability to effect change. Many observers in the nineteenth century shared the opinion of John Quincy Adams, who counseled the still weak country against going out to find dragons to slay. This limitation was somewhat alleviated by the subsequent rise in U.S. power, but first the Cold War and then the Vietnam War demonstrated that the United States still did not have sufficient power, or will, to spread its ideas to all countries.

A second limitation was U.S. wariness of multilateral institutions and international legal commitments. For much of its early history, the country followed George Washington's advice against forming long-term alliances and multilateral commitments. After World War II, though, the United States responded to new global conditions by helping to establish and by joining many new institutions and treaties. Still, the country retained some wariness of formal commitment. For example, U.S. representatives played a major role in drafting the Universal Declaration of Human Rights in 1948, but promoted a

[2] Michael H. Hunt, *Ideology and U.S. Foreign Policy* (New Haven, CT: Yale University Press, 1987), 19–45; and Arthur Schlesinger, Jr., "Human Rights and the American Tradition," *Foreign Affairs* 57 (Review Issue 1978): 503–510.

[3] Tami R. Davis and Sean M. Lynn-Jones, "City Upon a Hill," *Foreign Policy* 66 (Spring 1997): 21.

[4] Jan Herman Burgers, "The Road to San Francisco: The Revival of the Human Rights Idea in the Twentieth Century," *Human Rights Quarterly* 14 (May 1992): 447–477.

[5] Lincoln P. Bloomfield, "From Ideal to Program to Policy: Tracking the Carter Human Rights Policy," *Journal of Policy Analysis and Management* 2 (Fall 1982): 1–12; Joshua Muravchik, *The Uncertain Crusade: Jimmy Carter and the Dilemmas of Human Rights Policy* (Lanham, MD: Hamilton Press, 1986); Gaddis Smith, *Morality, Reason and Power: American Diplomacy in the Carter Years* (New York: Hill and Wang Publishers, 1986).

[6] David P. Forsythe, "Human Rights and US Foreign Policy: Two Levels, Two Worlds," *Political Studies* 43 (Special Issue 1995): 120–124; and Tamar Jacoby, "The Reagan Turnaround on Human Rights," *Foreign Affairs* 64 (Summer 1986): 1066–1086.

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document that laid out aspirations and ideals, not legally binding requirements.[7] Subsequently, the United States remained outside of many key international agreements, such as the UN Covenant on Civil and Political Rights and the Covenant on Social, Economic, and Cultural Rights. In several cases, the United States also openly disregarded decisions by the International Court of Justice (World Court).

Third, pursuit of human rights policies was limited by competing policy priorities. This problem can be seen even early in U.S. history in debates about whether to ally with France or England, but it was particularly dominant during the Cold War era. Containment of communism and security interests frequently outweighed human rights concerns. When human rights policies were in line with containment, for example in criticizing communist regimes, or when they could be pushed in less-strategically important areas, they were pursued. On the other hand, when anticommunist credentials and political stability were deemed necessary, the United States was willing to mute criticism of pro-Western dictators.

Finally, full implementation of a human rights policy was constrained by the limited institutional power of governmental human rights advocates and by minimal domestic political support for a human rights focus. In the U.S. foreign policymaking process, an idea, no matter how worthy, will not be implemented unless it has strong and savvy supporters who are able to push it through the various bureaucratic or congressional debates. The weakness of human rights advocates was partially ameliorated by the creation of the State Department's Human Rights and Humanitarian Affairs Bureau in 1977 and the rise of nongovernmental human rights organizations (NGOs) in the 1970s. In its early years, though, the Bureau was given little respect or cooperation by other bureaucratic players.[8] The NGOs had limited funding and policy expertise and often were excluded from the relatively closed foreign policymaking system of the era.

Thus, although there is a long-standing American tradition of rhetorical support for human rights, and although several historical and institutional changes led to the development of a human rights policy, translating ideals into practical application was difficult. Analysts looking at any given period through the 1980s could point to new ways in which human rights were shaping policies, but were also left acknowledging, and often lamenting, the particular era's constraints on full implementation.[9]

[7] Forsythe, *American Exceptionalism and Global Human Rights*, 7.

[8] Edwin S. Maynard, "The Bureaucracy and Implementation of US Human Rights Policy," *Human Rights Quarterly* 11 (May 1989): 175–248; and Daniel W. Drezner "Ideas, Bureaucratic Politics and the Crafting of Foreign Policy," *American Journal of Political Science* 44 (October 2000): 733–749.

[9] The existing literature on U.S. policy is vast, but discussions showing some of these restraints include David P. Forsythe, *Human Rights and U.S. Foreign Policy: Congress Reconsidered* (Gainesville: University of Florida Press, 1988); David Forsythe, "Human Rights in U.S. Foreign Policy: Retrospect and Prospect," *Political Science Quarterly* 105 (Fall 1990): 435–454; Glenn A.

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New Focus in a New Period

The end of the Cold War and other contemporaneous shifts appeared to finally remove all the long-standing limitations on U.S. human rights policy. Many observers felt that the United States now stood alone as a hegemon and had the power to influence decisions in countries around the globe. The collapse of communism also led many analysts to agree with Francis Fukuyama's idea that history had reached its end and liberal democracy had emerged triumphant.[10] Therefore, the United States, as the leading democracy, would just have to nudge a few recalcitrant states into line with the inevitable. Global trends also appeared favorable. Increased economic globalization seemed to enable the United States and other leading powers to use trade and other economic policies as "carrots" and "sticks" to enforce human rights.[11] Also, state sovereignty appeared to be weakening. The international community increasingly accepted the idea that powerful countries, like the United States, would lead international efforts to bring rogue states' policies into line with international norms.

The United States still retained some wariness of multilateralism and was unwilling to accept the levels of internal monitoring and joint action seen in the polices of other global human rights leaders,[12] but there were important shifts in U.S. attitudes beginning in the late 1980s. During the Cold War, U.S. officials were often hesitant to establish powerful UN agencies. They feared that the Soviet Union and its communist allies, perhaps in conjunction with newly independent states that might see some Western actions as reminders of colonial imposition, would skew UN debates and definitions of which rights should be protected. Moves toward democracy in Russia, Eastern Europe, and the developing world reduced those worries. The end of the Soviet veto in the Security Council also increased the chance of U.S.-controlled multilateral action. Finally, after the long Cold War, the United States was looking to shift some of the burden of world responsibility to its allies and multilateral institutions.

The Cold War's end also took away major competing policy priorities. With the Soviet threat gone, the United States appeared to have new flexibility in bilateral relationships and overall strategic planning. Human rights goals could rise and security considerations decline. Particular country-specific in-

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Mower, *Human Rights and American Foreign Policy: The Carter and Reagan Experiences* (Westport, CT: Greenwood Press, Inc., 1987); and Natalie Hevener Kaufman, *Human Rights Treaties and the Senate: A History of Opposition* (Chapel Hill: University of North Carolina Press, 1990).

[10] Francis Fukuyama, *The End of History and the Last Man* (New York: Free Press, 1992).

[11] Rebecca R. Moore, "Globalization and the Future of U.S. Human Rights Policy," *Washington Quarterly* 21 (Autumn 1998): 193–212.

[12] Kathryn Sikkink, "The Power of Principled Ideas: Human Rights Policies in the United States and Western Europe" in Judith Goldstein and Robert O. Keohane, eds., *Ideas and Foreign Policy: Beliefs, Institutions, and Political Change* (Ithaca, NY: Cornell University Press, 1993): 139–170.

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terests such as counternarcotics goals in Colombia, military cooperation in Turkey, or regional cooperation in Egypt remained to complicate policy priorities, but there appeared to be no global doctrine that would conflict with the pursuit of human rights.

By the late 1980s, the policymaking position of human rights advocates had been strengthened by institutional growth of both governmental and nongovernmental agencies. Also, the foreign policymaking system opened somewhat after Vietnam to allow more independent activity by Congress, the press, interest groups, and the general public. Support from nongovernmental actors became increasingly crucial, and their access to decision makers increased.

Taken together, the various changes of the late 1980s appeared to have removed the old limitations. The United States was powerful, more willing to act multilaterally, free of major competing priorities, and had stronger domestic human rights advocates. Therefore, within many government, NGO, and academic circles, there was great optimism that a new policy era had emerged and that human rights considerations could move forward unencumbered.[13]

Before examining the extent to which human rights policies in this new era have or have not matched that optimism, it is important to note a couple of methodological ideas. For the purpose of this argument, the post-Cold War era will be defined as beginning in 1991. The major policy event of that year, the Persian Gulf War, was a harbinger of policies to come, not a throwback to the Cold War era policies. Therefore, the period includes the end of George H.W. Bush's presidency and the presidencies of Bill Clinton and George W. Bush. There are differences among the viewpoints and rhetoric of these three presidents. For example, the elder Bush pursued more ad hoc policies, whereas Clinton laid out a grander vision and had more commitment to international organizations.[14] Clinton and the younger Bush have important differences on how to define rights and how to pursue objectives. For definitions, Clinton usually drew off existing international treaties and common law, whereas Bush has put more focus on the less legally binding idea of God-given human "dignity." On tactics, Clinton often acted multilaterally, while Bush is more willing to act unilaterally.[15] These differences are real, and reflect both ideo-

[13] This view was quite widely held, but for a sample of the arguments, see U.S. Department of State Management Task Force, *State 2000: A New Model for Managing Foreign Affairs* (Washington DC: U.S. Department of State Publications, 1992); Theodore C. Sorenson, "America's First Post-Cold War President," *Foreign Affairs* 71 (Fall 1992): 13–30; and David P. Forsythe, "Human Rights in a Post-Cold War World," *National Forum* 72 (Fall 1992): 40–44. For a competing view that the Cold War's end might lead to a less activist human rights policy, see Alan Tonelson, "Jettison the Policy," *Foreign Policy* 97 (Winter 1994–95): 121–132.

[14] Forsythe, "Two Levels, Two Worlds," 124–128.

[15] Julie Mertus, "The New Human Rights Policy: A Radical Departure," *International Studies Perspectives* 4 (November 2003): 371–384; and L. Kathleen Roberts, "The United States and the World: Changing Approaches to Human Rights Diplomacy under the Bush Administration," *Berkeley Journal of International Law* 21 (Issue 3 2003): 631–661.

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logical disputes and the very different world conditions faced by each president. However, if one examines the specific country policies followed by the three presidents, there is significant and important continuity. Also, differences in presidential tactics are very often differences of degree, not kind. The human rights literature commonly analyzes policy development by administration, but this paper will focus on substantive policy trends across the three administrations.

The Steps Forward

Since the end of the Cold War, increased focus on human rights in policymaking has continued. The steps forward are diverse, but can be organized around four main themes: rhetorical support for human rights, proactive measures to spread democracy and rights, new targeted legislation, and new acceptance of international human rights treaties and legal authority.

Rhetorical Support

All three post-Cold War presidents have laid out an overall vision guiding policy. All three visions have incorporated and strengthened the idea of pursuing human rights and democracy. In justifying the Persian Gulf War, George H.W. Bush spoke of an emerging "New World Order" based on international norms and rights.[16] Clinton, and his national security advisor, Anthony Lake, looked for a vision to replace containment and spoke of "democratic enlargement" that would "foster and consolidate new democracies and market economies where possible."[17] For George W. Bush, the guiding vision has been defeating terrorism. As will be discussed later, this vision has complicated the pursuit of a human rights agenda, but Bush has also reinforced the idea that in order to defeat terrorism and ensure security, America must lead the fight for individual rights. In his 2002 State of the Union address, Bush explained, "America will lead by defending liberty and justice ... [and] will always stand firm for the non-negotiable demands of human dignity: the rule of law, limits on the power of the state, respect for women, private property, free speech, equal justice, and religious tolerance."[18] The *National Security Strategy*

[16] Bush first publicly used the phrase "New World Order" in an 11 September 1990 speech to Congress describing the response to Iraq's invasion of Kuwait. George Bush, "Out of These Times ... a New World Order," *Washington Post*, 12 September 1990.

[17] Anthony Lake, quoted in Douglas Brinkley, "Democratic Enlargement: The Clinton Doctrine," *Foreign Policy* 106 (Spring 1997): 116.

[18] President George W. Bush, "State of the Union Address, January 29, 2002," accessed on the White House website at http://www.whitehouse.gov/news/releases/2002/01/20020129-11.html, 24 January 2004.

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of the United States of America issued in September 2000 pledged to "press governments that deny human rights."[19]

Beyond these sweeping visions, the promotion of human rights has become a regular part of arguments used to justify many policies. Crucially, it is now often argued that the United States need not choose between human rights and other interests, because defense of human rights aids other interests. This view stems partly from acceptance of the academic conventional wisdom that no two democracies have ever fought each other. Furthermore, many government officials believe that countries with good human rights records are more likely to work with the United States on transnational issues such as drugs and weapons proliferation, to engage in more trade, and, in the words of one State Department official, to be "the best partners and only true allies for our nation."[20] These statements show that human rights promotion is fully entrenched as a U.S. policy goal.

Proactive Policies

Traditionally, human rights policies have focused on criticizing violators and punishing them through a variety of symbolic, economic, and legal means. In the post-Cold War period, the United States has continued to implement such polices. For example, the State Department's Annual Report on Human Rights, whose influence is illustrated each year by the strenuous denials and counterattacks advanced by countries singled out for criticism, has been strengthened. Also, the United States has led diplomatic efforts to punish violators in places such as Serbia, Haiti, Iraq, Zimbabwe, and Burma. Importantly, though, the United States has increasingly adopted more proactive policies that attempt to stop abuses before they occur and give greater rewards for human rights progress.

One sign of this shift has been the rise of humanitarian interventions. There are always multiple interests driving major military interventions, but U.S. actions in Somalia, Haiti, and Kosovo were driven to a large degree by human rights and humanitarian priorities. Operation Restore Hope in Somalia was prompted by humanitarian desires to stop the civil war and establish order so that food relief could reach the starving population.[21] In Haiti's case, the

[19] *National Security Strategy of the United States of America*, 4, accessed at http://www.whitehouse.gov/nsc/nssall.html, 24 January 2004.

[20] Michael E. Parmly, Principle Deputy Assistant Secretary of State for Democracy, Human Rights, and Labor, "The UN Commission on Human Rights," testimony before the House International Relations Committee's Subcommittee on International Operations and Human Rights, *Federal News Service, Inc.*, 6 June 2001.

[21] Herman J. Cohen, "Intervention in Somalia" in Allan E. Goodman, ed., *The Diplomatic Record 1992-1993* (Boulder, CO: Westview Press, 1995), 51–80; and John L. Hirsch and Robert B. Oakley, *Somalia and Operation Restore Hope: Reflections on Peacemaking and Peacekeeping* (Washington DC: United States Institute of Peace, 1995).

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refugee issue played a major role in policy calculations, but even when much of that flow had been reduced, Clinton tried a number of pressures and appeared ready to fight for democracy in Latin America.[22] Ultimately, a major invasion was headed off only by last-minute negotiations that restored to power democratically elected President Jean-Bertrand Aristide. In Kosovo, the United States led NATO efforts aimed at stopping Serbian abuses.[23] Importantly, this intervention occurred against an existing government acting in its sovereign territory. None of these interventions proved entirely successful, but what is striking is that they were made at all. They demonstrate that the United States was willing to use force to change the internal governance and conditions within other countries even when security interests were minimal.

The United States has also tried to change conditions through nonmilitary means. New focus has been put on the idea of building civil societies and stable government systems that will protect citizens' rights. These ideas are not entirely new and gained momentum with the creation of the National Endowment for Democracy during the Reagan administration, but they have reached new heights. In recent years, the United States has spent over $700 million per year on programs to promote democracy.[24] Through programs such as the Human Rights and Democracy Fund, these monies go to help monitor elections, train legislatures, develop political parties, promote judicial reform, and support trade unions. These and other programs will likely expand if Bush pursues his goal of bringing democratic reforms to the Middle East.

The proactive policies have also included efforts to encourage reform through "carrots" rather than "sticks." In March 2002, Bush announced the creation of a new development fund, the Millennium Challenge Account (MCA). The new $5 billion-per-year program will distribute aid only to countries that are "ruling justly, investing in their people, and encouraging economic freedom."[25] To be eligible, countries must meet per capita income requirements. They are then scored on sixteen data indicators: six on governing justly, four on investing in people, and six on promoting economic freedom. Countries must score above the median for their income group on at least half of the indicators in each area and above the median on corruption. The hope is that the program will lessen corruption and waste in

[22] Douglas Jehl, "Clinton Explains Why He Might Use U.S. Army in Haiti," *New York Times*, 20 May 1994; Pamela Constable, "Haiti: A Nation in Despair, a Policy Adrift," *Current History* 93 (1994): 108–114.

[23] Ivo H. Daalder and Michael E. O'Hanlon, *Winning Ugly: NATO's War to Save Kosovo* (Washington DC: Brookings Institution Press, 2000); and Albrecht Schnabel and Ramesh Chandra Thakur, *Kosovo and the Challenge of Humanitarian Intervention: Selective Indignation, Collective Action, and International Citizenship* (New York: United Nations University Press, 2000).

[24] Figure cited in David P. Forsythe and Barbara Ann J. Rieffer, "US Foreign Policy and Enlarging the Democratic Community," *Human Rights Quarterly* 22 (November 2000): 989.

[25] George W. Bush, "President Proposes $5 Billion Plan to Help Developing Nations, March 14, 2002," accessed on the White House website at http://www.whitehouse.gov/news/releases/2002/03/20020314-7.html, 20 November 2004.

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U.S. aid programs, give countries an incentive to implement economic and political reform, reward countries that are succeeding, and help alleviate some of the causes of human rights abuse, such as poverty and excessive state control. The program has been slow to become fully operational. Implementation questions also remain, such as whether the program is so targeted that it will exclude many of the world's poorest areas, or conversely, whether it will become so broad that it risks becoming politicized in ways that have hurt past programs. Many development and human rights groups have welcomed MCA as a new tool for inducing change. The embrace of aid and human rights criteria by a conservative Republican president has been described as having a "Nixon-goes-to-China flavor"[26] and is another indication of how human rights goals have become important components of U.S. policy.

New Targeted Legislation

A third development of this new era has been a shift to targeted legislation. During the Carter period, the focus was on broad legislative restrictions on U.S. foreign aid. Often referred to as 502B restrictions, the law states that no security assistance may be provided to any country that engages in a "consistent pattern of gross violations of internationally recognized human rights."[27] In practice, however, aid has been restricted only rarely.[28] Neither the executive branch nor Congress has wanted to antagonize U.S. allies by labeling them as abusers, and even nongovernmental human rights leaders like Aryeh Neier note that 502B is "like an atom bomb; it may have more benefit before you actually use it."[29] In response to the step back of nonenforcement after the step forward of passing the legislation, congressional human rights leaders in the post-Cold War period have advanced more-targeted legislation. In some cases, this has meant new restrictions on trade with or aid to specific countries, such as Burma, Indonesia, or Colombia. In two other significant cases, the Leahy law and the International Religious Freedom Act, it has meant new global restrictions on ties with specific kinds of violators.

With an eye toward restricting U.S. aid to Colombia without having to use the all-or-nothing approach of 502B, Senator Patrick Leahy (D-VT) sponsored an amendment to the 1997 Foreign Operations Appropriations Act (P.L.

[26] Steven Radelet, "Bush and Foreign Aid," *Foreign Affairs* 82 (September/October 2003): 117.

[27] Originally offered as a sense of Congress resolution in 1974, the language was made binding in the International Security Assistance Act of 1978 (codified as amended at 22 USCS § 2304 [2004]).

[28] Numerous academic studies have shown the limited impact of the legislation. A recent example is Clair Apodaca and Michael Stohl, "United States Human Rights Policy and Foreign Assistance," *International Studies Quarterly* 43 (March 1999): 185–198.

[29] Aryeh Neier, at the time executive director of Human Rights Watch, in Carroll J. Doherty, "Human Rights," *The Congressional Quarterly Weekly Report*, 5 December 1992, 3755.

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104-208) that prohibited giving U.S. counternarotics aid to any specific military unit that had committed a gross violation of human rights. The following year, the prohibition was extended to all forms of aid to security forces paid through the 1998 Foreign Operations Appropriations Act (P.L. 105-118). Then in 1999, similar language prohibiting U.S. military training of violators was added to the Defense Appropriations Act (P.L. 105-261). These terms are often referred to as the "Leahy law"; however, because they are actually appropriations riders, they must be renewed each year as part of the appropriations cycle. The Leahy language brought three significant changes. First, the law theoretically keeps U.S. aid out of the hands of actors that are among the worst violators, because it targets military units, who often lead state abuse. Second, the law promotes prosecution of violators, because aid can be continued if the recipient country is taking action to bring the offenders to justice. Third, and most crucially, it gives the United States a targeted human rights tool to supplement the blunt weapon of 502B. In 1998, the law stopped the Turkish anti-terror police from purchasing armored vehicles. Subsequently, it has affected discussions with Indonesia, Mexico, and others. In late 2002, the Bush administration announced that for the first time, it was suspending aid to a Colombian Air Force unit accused of using helicopter-launched rockets against civilians.

New targeted legislation has also been put in place to punish countries that violate religious freedom. The International Religious Freedom Act (P.L. 105-292) was signed into law on 27 October 1998, after several years of work by faith-based organizations and religious conservatives in Congress.[30] The law establishes the Office on International Religious Freedom within the State Department, led by an ambassador-at-large. The office monitors religious persecution, recommends policies to promote freedom, and compiles its own report in conjunction with the annual human rights reports. The law also provides a long list of actions the president can take to punish violators. More of the sanctions were mandated in original drafts of the legislation, but the Clinton administration pressed for flexibility in determining which countries should be targeted, what actions should be taken, and when the sanctions could be waived. Some observers have complained that this flexibility allows the administration too great a latitude to avoid criticizing allies.[31] At a minimum, though, the law adds another layer of review and potential condemnation and punishment, so that violators may be induced to change their policies.

[30] For more on the work of these groups and their mounting power, see Miles A. Pomper, "The Religious Right's Foreign Policy Revival," *CQ Weekly*, 9 May 1998, 1209–1210; and Miles A. Pomper, "Religious Right Flexes Muscles on Foreign Policy Matters," *CQ Weekly*, 13 July 2002, 1893–1896.

[31] Human Rights Watch, "U.S. Report on Religious Freedom is Flawed," 26 October 2001, accessed at http://www.hrw.org/press/2001/10/religious1026.htm, 24 July 2002.

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International Treaties and Legal Authority

A fourth post-Cold War development was increased U.S. participation in international agreements and multilateral institutions. Since 1988, the United States has ratified four international human rights treaties that it had ignored for decades. Conventions on genocide, torture, and racial discrimination, along with the fundamental International Convention on Civil and Political Rights, were all ratified by 1994. Also, in 1998, Clinton signed an executive order stating that it was the policy and practice of the U.S. government "fully to respect and implement its obligations under international human rights treaties to which it is a party."[32] These ratifications and commitments simply brought the United States into line with much of the rest of the international community that had already ratified the agreements, but they were an important symbol of a new U.S. attitude as the Cold War ended.

The early post-Cold War years also saw the United States working much more often through the UN. The most visible sign of this new attitude was that the United States went to the UN for resolutions of support and justification for actions in the Persian Gulf, Somalia, and Haiti. In each of these cases, the decision to act was really made in Washington, but UN support was seen as politically important for reinforcing the idea of a new world of international human rights norms and cooperation. The United States has also been supportive of UN actions in Cambodia and East Timor.

U.S. efforts in the early 1990s to buttress the UN's institutional capabilities on human rights have garnered less attention, but are also important. Under George H.W. Bush, Assistant Secretary of State for Human Rights Richard Schifter pushed the UN Human Rights Commission to be more active in investigating high-profile countries.[33] Also, during the Cold War, the United States had given rhetorical support to the idea of developing a UN High Commissioner for Human Rights, but U.S. diplomats acknowledge that the idea was never given active support.[34] Under Clinton, however, the United States made the project a priority. In 1993, the office of the UN Human Rights Commissioner was established as a full-time human rights watchdog. In 2006, the United States did vote against creation of the UN's Human Rights Council, which was replacing the discredited UN Commission, but it was with an argument that the panel should be even stronger. The Bush administration also pledged to finance and support the new Council.

[32] Executive Order No. 13107, as quoted in Sean D. Murphy, "Contemporary Practice of the United States Relating to International Law," *American Journal of International Law* 93 (April 1999): 479.

[33] *U.S. Human Rights Policy: A 20-Year Assessment* (Washington DC: United States Institute of Peace, 1999), 8.

[34] Patrick Flood, "Human Rights, UN Institutions, and the United States" in David P. Forsythe, ed., *The United States and Human Rights: Looking Inward and Outward* (Lincoln: University of Nebraska Press, 2000): 367.

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One final way in which the United States has shown support for multilateral actions and international law was by supporting formation of the International Criminal Tribunals for Yugoslavia and for Rwanda.[35] The United States also used sanctions and other pressures to encourage countries to cooperate with the tribunals. Established in 1993 and 1994, respectively, these tribunals were the first international war crimes tribunals since the post-World War II Nuremberg trials. Although their long-term impact remains to be seen, the tribunals have been important symbols of new international agreement on norms of behavior. Additionally, they have established international case law and precedents, shown that even top political leaders can face possible prosecution and punishment, and possibly deterred future abuses by those fearing punishment; however, this last point is widely contested. U.S. support for the tribunals showed that the United States would acknowledge and promote the legitimacy of international courts in certain cases.

Continued Limits on Power

As the Cold War ended, the United States appeared ready to dominate the world, but the ensuing decade clearly has shown that important barriers to U.S. influence still exist. The overall local conditions of countries that the United States hopes to influence and the determination of particular leaders to act as they see fit despite international condemnation remain two great barriers to U.S. influence. These factors will not change significantly, no matter how much economic or military power the United States amasses. Too often, optimistic observers, including some U.S. government officials, assume that if the United States just focuses its attention on a particular country, and especially if it takes active steps such as sanctions or military intervention, years of local history will simply vanish as indigenous people see the light of U.S. wisdom. For example, when the United States acted in Somalia, some officials initially believed that the mission could be completed in a month's time. When the U.S. phase of the mission continued instead for five months, there was real impatience and annoyance with the UN for failing to step in to assume responsibility so that U.S. troops could withdraw. There was also a degree of shock and betrayal expressed when, in the following fall, eighteen U.S. soldiers were killed by a Somali faction that did not accept the UN's plans for a new Somali government. Similarly for Haiti, Bosnia, Chechnya, and elsewhere, critics tend to assume that anything short of total success is a sign of U.S. inattention or mistakes, not the result of complicated local histories that the United States can influence only at the margins.

Cases such as Serbia, Iraq, North Korea, Cuba, Zimbabwe, and others defined as "rogue states" also show that U.S. power to influence is severely

[35] Henry J. Steiner and Philip Alston, *International Human Rights in Context: Law, Politics, and Morals: Text and Materials*, 2nd ed. (Oxford: Oxford University Press, 2000), 1144–1156.

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limited if leaders are determined to act despite international displeasure.[36] One must not forget that the prime goal for many leaders is to maintain power, no matter what actions that requires. Also, leaders are well aware of international standards, so their violations come not from ignorance but from policy calculations that certain steps are necessary or justified, given local conditions. When the Cold War ended, many optimists assumed that with Soviet support gone, governments would be forced to yield to U.S. power, but this view neglected to give proper weight to Representative Thomas P. (Tip) O'Neill's famous comment that "all politics is local."

Furthermore, U.S. power to bring about human rights change has been limited by four developments in the post-Cold War era. First, the spread of a global economy, at times, has constrained instead of enhanced U.S. power.[37] The United States itself is increasingly dependent on trade and access to foreign markets and investment opportunities. Therefore, if the United States threatens economic sanctions, violators can try to call the U.S. bluff, and force the United States into a decision that could hurt its own economy. Also, the global economy means that there are many other countries ready to step in to replace lost investment, imports, and export markets if a country loses U.S. business. The classic case of these economic realities is China. George H.W. Bush supported continued trade with China despite the Chinese government's actions at Tiananmen Square. In 1993, Clinton imposed human rights conditions on China's Most Favored Nation (MFN) trade status and set up a one-year game of "chicken." By the spring of 1994, China clearly had not met the conditions, but only a minority of congressmen and few in the administration were actually willing to limit U.S. trade. This hesitation was reinforced by the fact that America's European allies had long since ended their punishments of China and were actively looking to increase business in China should the United States pull out. In response to these realities, Clinton dealt the human rights community one of its greatest losses by de-linking human rights and trade and adopting a strategy of engagement with China.[38]

The European defection on China also highlights a second new limit on U.S. power; namely, the United States can no longer automatically count on the support of its allies in pressing human rights concerns. For years, international human rights alliances followed Cold War alliances. Democratic countries generally were in agreement and saved their toughest criticism for communist countries. Furthermore, it was accepted that major disagreements

[36] Meghan L. O'Sullivan, "Sanctioning 'Rogue States,'" *Harvard International Review* 22 (Summer 2000): 56–60.

[37] Moore, "Globalization and the Future," 193–194.

[38] David M. Lampton, "America's China Policy in the Age of the Finance Minister: Clinton Ends Linkage," *The China Quarterly* 139 (September 1994): 597–621; Joseph Fewsmith, "America and China: Back from the Brink," *Current History* 93 (September 1994): 250–255; John W. Dietrich, "Interest Groups and Foreign Policy: Clinton and the China MFN Debates," *Presidential Studies Quarterly* 39 (June 1999): 280–296.

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within the alliance should be muted, so that it could remain strong against its enemies. Recently, though, with the unifying Soviet threat gone, U.S. allies have shown more independence on a host of issues, including human rights. As many countries move toward various forms of liberal and illiberal democracy, the United States and its allies are hard-pressed to agree on who deserves human rights pressure. European allies have had sharp differences with the United States on policies toward Cuba, Iran, Iraq, China, and the Middle East. There are also more differences now on tactics. Although the United States often turns to military and economic pressures, European governments more often address human rights through engagement, dialogue, and treaties.[39] Europeans also have argued that the United States has followed a unilateralist foreign policy, with little consultation. Without allied support, the United States may be powerful by some measures, but it lacks both the moral authority and the resources to challenge every violator.

The combination of the global economy giving countries multiple sources for trade and the lack of allied cooperation has led many observers to conclude that a third limit on U.S. power is that sanctions rarely achieve their intended purposes. Sanctions often appeal to those who are looking for action tougher than simple criticism. By 2001, some form of sanctions had been placed on seventy-two countries for a variety of offenses, including human rights violations.[40] Numerous academic and other studies have shown, however, that sanctions—particularly unilateral sanctions, as many U.S. human rights actions are—have a poor record of inducing policy change.[41] Furthermore, they can also hurt the U.S. economy. Business groups and coalitions such as USA Engage frequently argue that sanctions hurt the American people. Worse still is the pain that may be inflicted upon the very people the sanctions are designed to protect. In Iraq, in Haiti, and elsewhere, there are real questions as to whether the denial of food, medicines, safe water, and so on may not have been worse human rights violations than anything that the indigenous government had done. Human rights sanctions blossomed during the 1990s, but now both George W. Bush's administration and congressional figures have called for their reduction. Problematically, policymakers are thus left with few options between criticism and intervention. The net effect may be fewer punishments of any kind.

A final new development limiting U.S. power to enforce human rights policies is that the violating countries have become much more savvy and

[39] Robert Kagan, "Power and Weakness," *Policy Review* 113 (June/July 2002): 3.

[40] Figure cited in Miles A. Pomper, "GOP Drive to Roll Back Sanctions Promises to be Case-by-Case Struggle," *CQ Weekly*, 10 February 2001, 339.

[41] Gary Clyde Hufbauer and Jeffrey J. Schott, assisted by Kimberly Ann Elliott, *Economic Sanctions Reconsidered: History and Current Policy* (Washington DC: Institute for International Economics, 1990); Robert A. Pape, "Why Economic Sanctions Do Not Work," *International Security* 22 (Fall 1997): 90–136; and Kimberly Ann Elliot, "The Sanction's Glass: Half Full or Completely Empty?" *International Security* 23 (Summer 1998): 50–65.

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active in combating U.S. and UN efforts. Countries have learned that in the human rights arena, image is very important. Rather than allowing the United States and others to paint their image, countries now go on the offensive. They release political prisoners at strategic times, challenge the State Department's annual report almost before it has been released, and raise complaints against other countries that will deflect attention away from themselves. Frequently criticized countries also realize that they can block much action if they join human rights institutions. Cuba, Syria, Sudan, and China have all found that seats on the UN Human Rights Commission and careful lobbying of members can blunt many U.S. efforts. These countries do not allow the United States to rally international pressure; they nip actions in the bud.

In fact, the recent history of the UN Human Rights Commission offers insight into many of the power problems the United States faces. Commission members are elected to represent their regions of the world. Given U.S. leadership in the human rights field, the United States had held one of the Western Europe and Others Group seats since the Commission's founding. In 2001, though, the United States came in fourth in a race for three seats. The loss has been attributed by various observers to a combination of U.S. inattention to UN diplomacy, European desire to punish U.S. unilateralism, and the power of accused violators who rallied voting countries against the United States and in favor of Austria, which itself had been criticized by international bodies.[42] In 2002, the United States was able to regain its seat, but the Commission had been much less active in the intervening year. For example, the United States could not find any country willing to sponsor a tough resolution against China. A former public member of the U.S. delegation attributed this reluctance to Chinese threats to economically punish countries that acted against China in international forums.[43]

These various limits on U.S. power and policy setbacks reinforce the idea that although there have been many changes in the international system in recent years, fundamentally it is still based on state sovereignty and the pursuit of national interests.[44] Although the United States stands as the only multidimensional power and is far ahead of its competitors, it cannot always dictate polices to either target countries or to its allies. In principle, the United States could use its power to bring regime changes and to engage in long-term, colonial-style occupations that might or might not bring about desired local changes. Such actions, however, would go against new global and American

[42] See Barbara Crossette, "For the First Time, U.S. Is Excluded From U.N. Human Rights Panel," *New York Times*, 4 May 2001; and Christopher Marquis, "Washington Angry Over Losing Rights Seat," *New York Times*, 4 May 2001.

[43] Nina Shea, Director of the Center for Religious Freedom, Freedom House, "The UN Commission on Human Rights: A Review of Its Mission, Operations, and History," testimony before the House International Relations Committee's Subcommittee on International Operations and Human Rights, 6 June 2001, *Federal News Service, Inc.*

[44] Stephen D. Krasner, "Sovereignty," *Foreign Policy* 122 (January/February 2001): 20–26.

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norms against imperialism. Only time will tell if U.S. actions in Afghanistan and Iraq—both interventions driven by security goals but with important human rights implications—will establish a new paradigm. Early evidence from those countries, added to evidence of limits on U.S. commitments to and ongoing problems in Haiti, Somalia, and the former Yugoslavia, seems, though, to confirm American distaste for both long-term occupations and nation building and to show that local realities are the most crucial variable in determining a country's path to stability and democracy.

These limits on U.S. power suggest why U.S. human rights policies are often not successful, but they also have affected the chance that efforts would be made in the first place. The American public and many government officials want to see short-term success. If positive change is not guaranteed or occurs slowly, Americans often become frustrated or lose interest, and policies are scaled back. Therefore, U.S. human rights policy in the future likely will look much as it has in the past, with the U.S. pressuring countries from the outside and often failing in its goals.

Continued Resistance to International Agreements and Actions

As was discussed earlier, the post-Cold War era has seen the United States take the forward steps of signing some international treaties and supporting international tribunals. Subsequently, though, it has followed its usual pattern of then taking steps backward. When the United States signed several treaties in the late 1980s and early 1990s, two steps were taken to limit the impact of the treaties. First, each ratification was accompanied by a series of "reservations," "understandings," and "declarations" (RUDs). These sought to clarify U.S. interpretations of particular treaty language and to lay out what actions the United States would or would not take in implementing the treaties. Taken together, the RUDs essentially said that the United States would follow the treaties as long as they were consistent with existing U.S. law and would implement the treaties without accepting any obligation to change U.S. law or policy.[45] These positions were in line with long-held beliefs that the U.S. Constitution is the highest law in the land and that it grants Congress the exclusive power to consider and create all laws. Thus, the validity of treaty guarantees that go beyond constitutional guarantees are questionable, and treaties that would require the United States to change laws are problematic.

RUDs are common international practice, but the U.S. RUDs raised the question of whether the United States was actually following the treaties at all. In November of 1994, the UN Human Rights Commission adopted a general statement on RUDs with a clear focus on the U.S. positions. In that statement, the Commission expressed "regret" over the U.S. positions and

[45] William A. Schabas, "Spare the RUD or Spoil the Treaty" in Forsythe, ed., *The United States and Human Rights*, 110–125.

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argued that specific U.S. reservations to the Covenant on Civil and Political Rights were "incompatible with the object and purpose of the Covenant."[46] Since then, the United States has not ratified any other major human rights treaties. Given the current focus on George W. Bush's unilateralism, it is important to remember that the RUDs and the slowdown in treaty signing began before his administration.

The second U.S. move to limit the impact of the treaties brought back the idea of "Brickerism." Senator John Bricker was a fierce opponent of the UN, international legal commitments, and international human rights treaties specifically. In the early 1950s, he led a movement for a constitutional amendment that would have made treaties non-self-executing, meaning that they would only become valid once Congress passed specific legislation implementing their terms into U.S. law.[47] Bricker's amendment would have asserted a large congressional role in foreign policymaking and would have served his express purpose: "to bury the so-called Convention on Human Rights so deep that no one holding high public office will ever dare to attempt its resurrection."[48] The movement gained momentum. To ensure the measure's close defeat and to protect its own overall constitutional powers, the Eisenhower administration promised that the United States would not ratify the conventions if Bricker's amendment was defeated. Ensuing administrations moved away from that promise, but for several human rights conventions, they returned to Bricker's idea that the treaties should be non-self-executing. This requirement places an extra hurdle in the ratification process and provides a way for the United States to symbolically support human rights by ratification without having to accept any real changes in U.S. policies.

In addition to placing limits on the treaties it has ratified, the United States also has chosen not to ratify several international treaties that relate more or less directly to human rights. The United States refused to join the over-100 countries that signed the 1997 Land Mines Treaty after U.S. demands for changes in the treaty were denied. The United States has been slow to accept international efforts to stop the use of child soldiers because of its own efforts to recruit seventeen-year-olds into military service.[49] The United States has signed, but not ratified, the Convention on All Forms of Discrimination against Women and the Convention on the Rights of the Child.

A desire to limit the impact of international agreements also explains U.S. reaction to the International Criminal Court (ICC); the reaction provides a classic illustration of American views. In some ways, the Court is the culmination of years of U.S. effort to bring order to the international system and to

[46] Ibid., 111. "Consideration of Reports Submitted by State Parties under Article 40 of the Covenant, Comments of the Human Rights Committee."

[47] Louis Henkin, "U.S. Ratification of Human Rights Conventions: The Ghost of Senator Bricker," *American Journal of International Law* 89 (April 1995): 346–350.

[48] Ibid., 349. Senator John Bricker quoted.

[49] Kenneth Roth, "Sidelined on Human Rights," *Foreign Affairs* 77 (March/April 1998): 2–6.

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find new ways of punishing violators. Clinton endorsed the goal of establishing the Court in 1995, and the U.S. delegation was active in shaping the Rome Statute of 1998 that established the Court. The ICC also seems similar to the tribunals on Yugoslavia and Rwanda, which were strongly supported by the United States. There are, however, two important differences: first, the ICC operates more independently of the UN security council and thus, in theory, more independently of great-power control; second, U.S. troops or government officials could some day face charges by the Criminal Court.

Over time, officials from both the Clinton and George W. Bush administrations have expressed other concerns about the Court.[50] For example, there has been concern that the Rome Statute's definitions of international crimes are vague, open-ended, and not subject to reservations. There have again been questions about the constitutionality of forcing U.S. adherence to laws not passed by Congress. There has also been major criticism of Article 12 of the statute, which states that the Court may assert jurisdiction over certain crimes committed on the territory of a state party, including crimes committed by nationals of a non-party. Thus, even if the United States does not ratify the statute, its soldiers could be brought before the ICC if they committed a crime while in a ratifying country. U.S. officials have stated that this article goes against treaty law by making a non-party subject to a treaty. From a practical perspective, this article only becomes a problem if the United States chooses not to ratify for other reasons.

The interrelated questions of U.S. control and possible trials of Americans have been the two central issues hindering U.S. acceptance of the ICC. During negotiations, the U.S. delegation pushed hard for UN Security Council control of the Court, which would have enabled the United States to veto politically motivated investigations of U.S. citizens. Other countries argued for an independent court. In the end, the United States accepted a compromise that gave the ICC prosecutor much independence but allows the Security Council to pass a resolution to suspend an investigation or prosecution for one year.[51] Some U.S. officials still felt the prosecutor was given too much latitude. Also, many argued that U.S. soldiers and officials were at greater risk of prosecution because of America's greater world role. Clinton officials thus pressed for several ways to limit the chance that Americans would be brought before the Court.[52] Most crucial was the principle of complementarity, which means that the ICC cannot proceed with an investigation or prosecution of a crime that is being or has been investigated or prosecuted by a state that has juris-

[50] David J. Scheffer, "Staying the Course with the International Court," *Cornell International Law Journal* 35 (November 2001): 47–98; and John R. Bolton, "The Risks and Weaknesses of the International Criminal Court from America's Perspective," *Virginia Journal of International Law* 41 (Fall 2000): 186–203.

[51] Diane Orentlicher, "Unilateral Multilateralism: United States Policy Toward the International Criminal Court," *Cornell International Law Journal* 36 (Issue 3 2004): 419.

[52] Scheffer, "Staying the Course," 73–74.

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diction, unless the state is unwilling or unable to carry out a fair investigation or trial.[53] Thus, if a U.S. soldier were to be accused of a crime, the case could go to the ICC only if the U.S. judicial system failed to genuinely investigate the allegation and proceed with a fair trial. Thus, the chance of an American being put on trial was low, but still present.

Because of these concerns, the United States was one of only seven countries to vote against the Rome Statute. Clinton signed the Statute on 31 December 2000, the last day that countries could become party to the treaty without formal ratification. As he did so, however, he discussed "significant flaws in the treaty" and said that he would not submit the treaty for ratification.[54] He pledged to work for the evolution of Court rules. George W. Bush has expressed even deeper concerns about the Court and has taken more-assertive action. First, in May 2002, as the Court was about to begin operation, Bush notified the UN that the United States had no intention of becoming a party to the statute and was essentially "unsigning" the treaty. Bush administration officials argued that this unprecedented action was necessary because complementarity was "simply an assertion, unproven and untested."[55] They were worried about the potential damage if investigations of either U.S. servicemen or U.S. leaders occurred, and they opposed the idea that the ICC would ultimately decide whether a national court system had acted fairly. The administration, therefore, took steps to ensure that Americans would not be turned over to the ICC. In July of 2002, the Bush administration delayed reauthorization of the UN peacekeeping mission in Bosnia as it sought permanent immunity for peacekeeping troops from ICC prosecution. U.S. actions were sharply criticized by European and UN officials. A compromise was struck that prohibited the ICC from investigating peacekeepers from nonratifying countries for one year. A similar resolution was passed in 2003, but the Bush administration chose not to pursue another renewal in 2004 after it became clear that such a resolution would not pass. Meanwhile, the United States pressed hard for countries to sign bilateral agreements under Article 98 of the Rome Statute. In the agreements, countries pledged not to surrender U.S. citizens to the ICC. By the summer of 2004, the United States had concluded over ninety agreements. These agreements have been sharply opposed by many U.S. allies. In August 2002, Bush signed the American Servicemembers' Protection Act (P.L. 107-206), which prohibits U.S. military assistance to countries that are party to the ICC and have not signed Article 98 agreements. The legislation also authorizes the president to use force to release any U.S. citizen held by the Court.

[53] Robert Tucker, "The International Criminal Court Controversy," *World Policy Journal* 18 (Summer 2001): 75–77.

[54] Bill Clinton, "The Right Action," *New York Times*, 1 January 2001.

[55] John R. Bolton, "The United States and the International Criminal Court," remarks to the Federalist Society, 14 November 2002, accessed on the website of the Department of State at http://www.state.gov/t/us/rm/15158pf.htm, 10 August 2003.

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Taken together, these actions show that the United States supports international treaties and courts as long as they are not applied to U.S. citizens and do not interfere with either U.S. domestic policies or U.S. military operations abroad. More generally, the United States is once again demonstrating that it supports human rights efforts, but only when it can lead and control those efforts. The U.S. position seems hypocritical to many critics and may prove shortsighted if U.S. power declines in the future. For the foreseeable future, though, the U.S. position reflects international realities. As was stated centuries ago, "The strong do what they have the power to do and the weak accept what they must accept."[56] Other countries may object to U.S. actions, but, so far at least, U.S. power has allowed it to act independently without huge long-term costs. Thus, as long as the United States remains the preeminent power, it will resist efforts either to bring its policies into line with the goals of others or to place restrictions on the pursuit of what it considers national interests.

Continued Competition from Other Policy Priorities

As a superpower, the United States has complex global interests and thus has to choose between policy priorities. In the Cold War era, containment of communism trumped all other policy goals. With the end of the Cold War, the United States appeared to have new flexibility. In fact, the last decade has seen the emergence of two new competing priorities, namely, pursuit of global trade and antiterrorism.

Clinton did raise human rights issues in his campaign against George H.W. Bush, but it was clear that he was elected because he remembered the famous slogan "It's the economy, stupid." Throughout his eight years, Clinton never lost focus on his pursuit of a strong economy, and he embraced the idea that the United States needed access to foreign markets to continue its growth. He worked hard to promote trade pacts such as the North American Free Trade Agreement and pursued ties with the "Big Emerging Markets." When pursuit of trade conflicted with tough human rights policies, as in the case of China, trade won time and time again. Clinton spoke of democratic enlargement, but as Douglas Brinkley argues, that strategy became increasingly "econocentric" and "was about spreading democracy through promoting the gospel of geoconomics."[57]

Soon, human rights advocates were speaking of "The New Double Standard," under which action was taken against only economically unimportant countries.[58] In the abstract, such a double standard is lamentable, but in the real

[56] "The Melian Dialogue" in Thucydides, *History of the Peloponnesian War* (New York: Penguin Books, 1954): 402.

[57] Brinkley "Democratic Enlargement," 118, 125.

[58] Aryeh Neier, "The New Double Standard," *Foreign Policy* 105 (Winter 1996/97): 91–101.

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world it is almost inevitable. Trade is a growing part of the U.S. economy, and economic strength is a growing part of what defines modern world power. Human rights must not be forgotten, but those waiting for the United States to sacrifice its perceived economic national interests for the good of humanity will have a long wait.

That wait has now been lengthened by George W. Bush's declaration of war on terrorism. Antiterrorism has replaced anticommunism as the guiding security doctrine. This shift has shaped the allocation of administration time and resources. It also has had a crucial impact on U.S. alliances and willingness to criticize human rights violators. Countries that were previously targeted as violators, but which expressed sympathy for U.S. losses and provided counterterrorism aid, were seen in a new light. The government of Ali Abullah Salih in Yemen suddenly was negotiating the arrival of U.S. military trainers and equipment. Malaysia's Prime Minister Mahathir Mohamad, known for his sharply anti-American views and his support of a conviction against his rival, Anwar Ibrahim, in a case the State Department termed "politically motivated and patently unfair,"[59] was invited to the White House. To reward Pervez Musharraf of Pakistan for his assistance, Bush supported new legislation that allowed him to waive sanctions imposed after Musharraf's 1999 coup. The administration also turned a relatively blind eye to Pakistan's 2002 referendum that extended Musharraf's rule without competitive elections and to modifications of the Pakistani constitution that gave the military a long-term role in politics.

The war on terrorism also lessened U.S. criticism of countries cracking down on internal groups, if those groups were defined as terrorists. For example, criticism of Russia's actions in Chechnya has declined. Before September 11, State Department officials met with the foreign minister of the separatist Chechen leadership. After September 11, a message was sent to separatists in Chechnya demanding that they sever all contacts with terrorists or face American isolation. Bush and other officials subsequently have expressed sympathy with Russian President Vladimir Putin's characterization of the Chechens as Islamic terrorists.[60] The long-term civil war in Colombia also has been recast as a battle against terrorism, because leftist revolutionary forces have frequently engaged in kidnappings and bombings. In the Middle East, the focus has been on cracking terrorist cells, so the administration has not yet pushed hard for democratic reforms in Saudi Arabia and elsewhere.

The war on terrorism has also strained U.S. adherence to international treaties on the treatment of prisoners. In general, the Bush administration has felt that security concerns were paramount. Therefore, the administration

[59] U.S. Department of State, "Malaysia," *Country Reports on Human Rights Practice–2001*, accessed on the website of the Department of State at http://www.state.gov, 28 September 2003.

[60] Michael Wines, "Road to U.S.-Russia Alliance Is Still Unmapped," *New York Times*, 21 October 2001.

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planned to hold suspected terrorists indefinitely and authorized use of tough interrogation tactics to acquire intelligence that might prevent future attacks. In the fall of 2001, top administration officials repeatedly referred to Taliban and al Qaeda detainees held at Guantanamo Bay, Cuba as "unlawful combatants" and argued that they did not qualify as prisoners of war (POWs) under the Geneva Conventions. President Bush reportedly confirmed this position on 18 January 2002 in an unreleased legal decision.[61] On 7 February 2002, Bush partially reversed this policy after pressure from allies, human rights groups, and his own State Department. He decided that while al Qaeda detainees still would not be covered, the Conventions would be applied to Taliban captives, although none of them would be granted POW status.[62] Critics suggested that Bush was misapplying definitions in the Conventions and that at a minimum, the administration was required to follow Article 5 of the third Convention, which requires a competent tribunal to determine the status of detainees whenever doubt arises as to their status.[63] The administration argued that Article 5 tribunals were not necessary because there was no doubt about the detainees' status.

Treatment of prisoners at Guantanamo Bay and elsewhere has also drawn criticism. In the wake of abuse cases at Abu Ghraib prison in Iraq, attention has focused on an August 2002 Justice Department memo written to guide Central Intelligence Agency treatment of al Qaeda detainees and a March 2003 Defense Department report that covered actions at Guantanamo. The Justice Department memo laid out a narrow definition of torture and advised the White House that torture "may be justified" and legal as part of the President's efforts "to prevent further attacks on the United States by the Al Qaeda terrorist network."[64] The Pentagon report was based partly on the Justice memo and went beyond standard military doctrine in laying out acceptable interrogation techniques, such as adjusting the temperature to uncomfortable levels, serving cold rations, and reversing sleep cycles from night to day.[65] The White House disavowed the Justice memo and took the unusual step of releasing previously classified documents in an effort to show that Bush had never approved torture. However, the overall tough policy on detainees joins the post-September 11 alliances and support for global crackdowns in rein-

[61] Sean D. Murphy, "Decision Not to Regard Persons Detained in Afghanistan as POWs," *The American Journal of International Law* 96 (April 2002): 475–480.

[62] Thom Shanker and Katherine Q. Seelye, "Captives: Behind-the-Scenes Clash Led Bush to Reverse Himself on Applying Geneva Conventions," *New York Times*, 22 February 2002.

[63] Ruth Wedgewood, "Al Qaeda, Terrorism, and Military Commissions," *The American Journal of International Law* 96 (April 2002): 328–335; George H. Aldrich, "The Taliban, Al Qaeda, and the Determination of Illegal Combatants," *The American Journal of International Law* 96 (October 2002): 891–898.

[64] Quoted in Dana Priest and R. Jeffrey Smith, "Memo Offered Justifications for Use of Torture: Justice Department Gave Advice in 2002," *Washington Post*, 8 June 2004.

[65] Dana Priest and Bradley Graham, "U.S. Struggled Over How Far to Push Tactics: Documents Show Back-and-Forth on Interrogation Policy," *Washington Post*, 24 June 2004.

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forcing the idea that security interests, like economic interests, still trump human rights concerns and will do so as long as the United States continues to face security threats—a situation that will continue for the foreseeable future.

Continued Weakness of Human Rights Advocates

Human rights seemed well-positioned at the start of the post-Cold War era from the standpoint of bureaucratic and NGO power. The State Department's Bureau on Democracy, Human Rights and Labor was now institutionalized.[66] Offices focusing on human rights or the promotion of democracy were being established at the National Security Council, the Agency for International Development, the Pentagon, and in the economic agencies. Furthermore, particularly during the Clinton administration, key positions were filled with long-time human rights advocates. Clinton's Secretary of State, Warren Christopher, had been active on the issue during the Carter administration. Assistant Secretaries of State for Human Rights John Shattuck, and after him Harold Hongju Koh, were both well-known and well-respected human rights advocates. These leaders and many of the staff they brought with them had close connections to private human rights groups such as Human Rights Watch and Amnesty International. They established much closer working relationships between government and nongovernment actors. Additionally, the nongovernment actors were themselves much better funded, staffed, and respected than they had been in the 1970s. It is, therefore, noteworthy that a mere decade later, human rights advocates appear to have become disorganized and weak, and have lost some popular support.

Ironically, part of the movement's new disorganization stems from the fact that the world has changed in directions that the advocates favored. The global spread of democracy, the fall of particular dictators, and systemic changes in countries such as South Africa have lessened abuse, but have also taken away the movement's easy targets. Russia and China continue to face criticism on some issues, but are not the totalitarian dictatorships of the past. Sustaining criticism of and rallying indignation against countries that still have some undesirable traits but that are moving toward democracy have proven difficult. Different groups inside and outside of government have therefore taken opposite positions on which countries should be praised for progress or criticized for slowness. Advocates have also disagreed on which tactics should be employed. For example, during the China MFN debates, business groups maintained a consistent voice for one policy. Within the human rights community, however, some groups supported engagement, whereas others favored punishment. Thus, there was less-strong policy advocacy overall. With so few issues unifying the entire governmental and nongovernmental community,

[66] In 1994, the Bureau's name was changed from Human Rights and Humanitarian Affairs to Democracy, Human Rights, and Labor.

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supporters of action on a particular country or issue are often isolated voices that are easily overwhelmed by supporters of other concerns.

Human rights concerns also suffer from the continued institutional weakness of their chief governmental supporters. The State Department's Human Rights Bureau has come a long way from its early days, but is still viewed warily by other bureaucrats.[67] Many officials feel that the Bureau simply repeats a mantra of human rights points without considering overall policy calculations or changing conditions. Even when they meet with Human Rights Bureau officials, other officials often tune out the message. Also, many see the Bureau as a mouthpiece for nongovernmental groups rather than as a source for independent analysis. Therefore, the recent access many human rights advocates have enjoyed may actually have hurt their cause by reinforcing the view that they have "captured" the Bureau. The Bureau's overall position is illustrated by looking at its most significant work, the annual reports. These reports have become institutionalized, and likely will continue for years. They also have been given more respect over time. Still, though, there often appears to be little connection between the Bureau's reports and overall policy. Countries are sharply criticized, yet aid is not cut off under 502B or other legislation, trade is continued, and diplomatic relations with violators continue after adjusting for their annual bump in the road. In addition to the Bureau, there are other governmental actors that support human rights, but those in Congress and other executive branch agencies typically push pet projects and particular concerns, not overall policy development.[68]

Given the weakness of governmental actors, human rights policy depends disproportionately on pressure from interest groups and the public. Human rights groups first began to blossom in opposition to President Richard M. Nixon's policy of *realpolitik*. They gained momentum during Carter's presidency, and then came to real prominence during the Reagan era, when they often sharply disagreed with the administration about particular cases and the overall direction of U.S. policy. In some ways, the Reagan years were difficult, but many human rights leaders agree that the groups ultimately benefited from Reagan's opposition.[69] During that era, human rights debates centered on disputes over the facts of who was a human rights abuser. The groups became increasingly professional at gathering and disseminating these facts. Also, during that era, the groups stood out as champions for morality and thus garnered much attention and financial support from those opposed to Reagan's policies. In the post-Cold War era, as the administrations themselves put more focus on human rights, the disputes switched away from facts toward difficult policy choices of how to respond to abuse. Also, the groups were no

[67] This and other observations are based on numerous interviews the author has conducted with officials in various State Department bureaus and the NGO community.

[68] Forsythe, "Human Rights in U.S. Foreign Policy," 449.

[69] See the comments of several human rights leaders, in David Rieff, "The Precarious Triumph of Human Rights," *New York Times Magazine*, 8 August 1999.

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longer criticizing their ideological enemies, but instead, former colleagues who had entered government service. The groups had better access, but that did not always translate into real policy influence. Additionally, when some government action was taken, the groups were left with the tough decision of whether to celebrate a glass half full, or complain about a glass half empty. Human rights groups also face new challenges, because their major strategy of releasing dramatic reports in the hopes of embarrassing countries into better behavior has lost some of its power over time. The first dramatic report might pressure a country, but years of reports lead many rogue states and others to learn to live with the criticism. Meanwhile, the reports suffer domestically from the problem of "compassion fatigue," a sense that a new problem emerges every time an old one is settled.

Furthermore, human rights issues have not stimulated major grassroots movements, except in unusual cases such as South African apartheid. In polls that ask respondents to rate "promoting and defending human rights in other countries" as a policy goal, significantly fewer than half rate it as "very important."[70] Similar results are found for the goal of bringing democracy to other countries. Notably, these poll numbers have been dropping in the post-Cold War era.

One major problem for both governmental and nongovernmental human rights advocates is the continued U.S. focus on security and economic interests, which makes their views seem of secondary importance. As noted earlier, these other interests are unlikely to recede any time soon, so advocates will continue to fight an uphill battle. A second problem is that few Americans see human rights abuses abroad as directly affecting their personal interests. Americans may support principles of morality, but evidence of human rights abuse can often be ignored simply by turning off the television. On the other hand, tax increases to increase foreign aid, embargoes that risk American jobs, or long-term military interventions do directly impact average citizens. Politicians know that they are unlikely to lose an election by disappointing the human rights community, but they could lose one if the side effects of policies hurt their constituents. Overall, lack of public focus and support for tough policies reinforces the institutional weakness of governmental and NGO human rights advocates. Thus, although human rights supporters are now respected parts of the Washington community and have better access to policymakers, their policy influence will likely remain low for years to come unless they find new tactics or new problems on which to focus.

Overall, the post-Cold War period has seen important new U.S. human rights actions, both bilaterally and multilaterally. Few observers would dispute that a policymaking environment exists now that is sharply different from

[70] Chicago Council of Foreign Relations, Foreign Policy Leadership Project, and Times-Mirror Center for the People and the Press polls discussed in Ole Holsti, "Public Opinion on Human Rights in American Foreign Policy" in Forsythe, ed., *The United States and Human Rights*, 131–174.

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that of thirty or even a dozen years ago. Still, major structural constraints remain. U.S. power and ability to force change on others is still limited. The United States remains wary of international law and multilateral initiatives that can be applied to U.S. domestic policies or that can constrain foreign actions. Competing national interests, particularly economic growth and anti-terrorism, continue to trump human rights concerns. Domestically, supporters of human rights are still weak actors in the policy-making process. In previous eras, observers often argued that a more effective and consistent human rights policy would come if a few variables were altered. The continued existence of key limits in the very different post-Cold War era shows that, in fact, the limits were never short-term, time- or issue-specific problems, but rather deeper constraints that stem from the realities of global and domestic politics. They did not disappear with the end of the Cold War, and they do not vary significantly by administration.

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The Rationality of Radical Islam

QUINTAN WIKTOROWICZ
KARL KALTENTHALER

Why do Islamist radicals engage in high-cost/risk activism that exposes them to arrest, repression, and even death? At a group level, it appears perfectly rational: zealous contention places enormous pressures on adversaries and increases the likelihood that the group will achieve its objective. Robert Pape's study of suicide terrorism provides some empirical evidence that extreme forms of activism do indeed produce concessions from opponents.[1] Yet, although extreme tactics may be deployed as part of a logical, coherent, and rational strategy to maximize group goals, is it "rational" for the *individual* perpetrators? Why not free-ride off the efforts of others rather than jeopardize personal self-interest?

We argue that radical Islamic groups offer spiritual selective incentives to individuals who are concerned with the hereafter. Although some radical Islamists are compelled by economic incentives or personal psychological needs that may have nothing to do with religious conviction (the need for revenge against perceived oppressors, a need for a sense of empowerment, or a desire for prestige), religion matters for many. In cases where individuals take spirituality seriously, movement ideologies offer strategies for fulfilling divine duties and maximizing the prospects of salvation on judgment day. In essence, these ideologies serve as heuristic devices or templates that outline the path to salvation. Where individuals believe that the spiritual payoffs outweigh the

[1] Robert Pape, "The Strategic Logic of Suicide Terrorism," *American Political Science Review* 97 (August 2003): 343–362.

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negative consequences of strategies in the here and now, high-cost/risk activism is intelligible as a rational choice.

This article uses al-Muhajiroun as a case study to demonstrate the rationality of radical Islam. Based in the UK, with branches throughout the Muslim world, this movement supported al Qaeda; jihad against the United States in Afghanistan, Iraq, and Saudi Arabia; terrorism against Israel; attacks against the United Nations; military coups against governments throughout the Muslim world; and the establishment of an Islamic state in Britain. After September 11, it garnered extraordinary media attention in the UK and raised serious concerns among governments combating Islamic terrorism. Although it was less radical than groups such as al Qaeda, al-Muhajiroun openly promoted an assortment of extremist causes and is a good example of high-cost/risk activism. The movement was formally disbanded in October 2004, but its activists continue to operate through two successor organizations: al-Ghurabaa' (the Strangers) and the Saviour Sect. Al-Muhajiroun's leader and founder, Omar Bakri Mohammed, left the UK for Lebanon in August 2005 and was barred from returning as a result of the British government's crackdown on Islamic extremism after the terrorist attacks on the tube system earlier in July.[2]

The focus of this article is on how spiritual incentives inspire Islamic radicalism. As a result, it does not directly address why individuals initially chose al-Muhajiroun over more moderate Islamic organizations that require less sacrifice. Nor does it focus on the process of preference reordering. These are important issues and are addressed extensively by the first author in a separate publication, which points to the importance of social networks, low levels of prior religious knowledge, identity crises, negative experiences with moderate Islamic figures and organizations, the public outreach activities of al-Muhajiroun, and perceptions about the credibility of the movement's leader as compared with moderate alternatives and radical rivals.[3] All of these drew individuals into study circles, where they were socialized into the movement ideology.

For those who eventually accepted the ideology as "true Islam" (and this was heavily influenced by perceptions about the credibility of the movement leader as an interpreter of Islam rather than the superiority of al-Muhajiroun's spiritual incentives relative to other groups),[4] why did they engage in high-cost/risk activism? Why not simply continue taking lessons without graduating to riskier behaviors? In other words, why not free-ride off the sacrifice of others?

We argue that the choice to move to high-cost/risk activism can be understood as a rational decision if we take the content of the movement's ideology seriously. Al-Muhajiroun's ideology outlines an *exclusive* strategy to salvation, which entails a number of costly and risky behaviors. Any deviations

[2] For details on the dissolution, see Quintan Wiktorowicz, *Radical Islam Rising: Muslim Extremism in the West* (Lanham, MD: Rowman & Littlefield, 2005), 213–217.

[3] Wiktorowicz, *Radical Islam Rising*.

[4] See Wiktorowicz, *Radical Islam Rising*.

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from this strategy mean that an individual will not enter Paradise, thus eroding tendencies toward free-riding. For those who accepted the movement ideology and sought salvation, a refusal to engage in high-cost/risk activism was tantamount to violating self-interest, because it meant that they would go to Hell.

Before proceeding, it is important to note limitations in conducting fieldwork on radical Islamic groups. The primary obstacle is access. Although surveys and large samples are preferable, they are rarely possible, given the secretive nature of these movements. As a result, one is left with small samples of respondents and ethnographic methods, if access is granted. In this study, the first author conducted thirty interviews (many tape-recorded) with movement leaders and activists and interacted with about one hundred other activists and movement "supporters." In addition, he attended movement-only lessons, public study circles, demonstrations, and community events, and collected movement documents and audio/written materials, including leaflets, protest announcements, training books, taped lessons/talks, and press releases. Although this hardly represents a probability sample of individuals, publications, and activities, the fieldwork results offer rare empirical evidence that addresses individual rationality.

Rational Radicalism?

Most studies of the causes of Islamism offer a grievance-based explanation implicitly rooted in functionalist social psychology accounts of mass behavior, which view collective action as derived from exogenous structural strains, system disequilibrium, and concomitant pathologies (alienation, anomie, atomization, normative ambiguity, etc.) that create individual frustration and motivation for "deviant" social behavior.[5] The model posits a linear causal relationship in which structural strains, such as modernization, industrialization, or an economic crisis, cause psychological discomfort, which, in turn, produces collective action. The implication is that participation is the result of "irrationality."

The preponderance of research argues that the underlying impetus for Islamic activism derives from the crises produced by failed secular modernization projects in the Middle East.[6] Rapid socioeconomic transformations and manipulated economic policies concentrated wealth among the Westernized

[5] See, for example, Ralph H. Turner and Lewis Killian, *Collective Behavior* (Englewood Cliffs, NJ: Prentice-Hall, 1957); William Kornhauser, *The Politics of Mass Society* (Glencoe, IL: The Free Press, 1959); Neil J. Smelser, *Theory of Collective Behavior* (New York: Free Press, 1962).

[6] Susan Waltz, "Islamist Appeal in Tunisia," *Middle East Journal* 40 (Autumn 1986): 651–670; R. Hrair Dekmejian, *Islam in Revolution: Fundamentalism in the Arab World*, 2nd ed. rev. (Syracuse, NY: Syracuse University Press, 1995); Valerie J. Hoffman, "Muslim Fundamentalists: Psychosocial Profiles" in Martin E. Marty and R. Scott Appleby, eds., *Fundamentalisms Comprehended* (Chicago, IL: University of Chicago Press, 1995); Mahmud A. Faksh, *The Future of Islam in the Middle East* (Westport, CT: Praeger, 1997).

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elites, state bourgeoisie, and corrupt government officials. Large swathes of the population, in contrast, faced housing shortages, insufficient municipal services and infrastructure, rising prices, declining real wages, and unemployment. The professional classes and lumpen intelligentsia, in particular, faced blocked social mobility and relative deprivation as a result of economic malaise and widespread employment preferences that emphasized *wasta* (connections) above merit.[7] The crises were compounded by the bitter Arab defeat in the 1967 war with Israel, the legacy of colonialism and cultural imperialism, and political repression.[8] According to this perspective, individuals responded by seeking to re-anchor themselves through a religious idiom.

Rather than viewing Islamists as grievance-stricken reactionaries, recent research has reconceptualized Islamic activists as strategic thinkers engaged in cost–benefit calculations. Lisa Anderson, for example, observes that "the closer the movements were to the prospects of sharing power, the more pragmatic they appeared to be."[9] Empirical studies of the Muslim Brotherhood in Jordan illustrate this point: the Brotherhood has demonstrated its willingness to sacrifice ideological ideals for political gains.[10] And movement activists make strategic decisions about organizational resources and relationships,[11]

[7] Saad Eddin Ibrahim, "Anatomy of Egypt's Militant Islamic Groups: Methodological Notes and Preliminary Findings," *International Journal of Middle East Studies* 12 (December 1980): 423–453; Hamied N. Ansari, "The Islamic Militants in Egyptian Politics," *International Journal of Middle East Studies* 16 (March 1984): 123–144; Henry Munson, Jr., "The Social Base of Islamic Militancy in Morocco," *Middle East Journal* 40 (Spring 1986): 267–284; Waltz, "Islamist Appeal in Tunisia," 651–670; Hoffman, "Muslim Fundamentalists"; Carrie Rosefsky Wickham, *Mobilizing Islam: Religion, Activism, and Political Change in Egypt* (New York: Columbia University Press, 2002), chapter three.

[8] Yvonne Y. Haddad, "Islamists and the 'Problem of Israel': The 1967 Awakening," *Middle East Journal* 46 (Spring 1992): 266–285; Franois Burgat and William Dowell, *The Islamic Movement in North Africa* (Austin: Center for Middle Eastern Studies at The University of Texas at Austin, 1993); Nikki R. Keddie, "The Revolt of Islam, 1700 to 1993: Comparative Considerations and Relations to Imperialism," *Comparative Studies in Society and History* 36 (July 1994): 463–487; John L. Esposito, *Islam and Politics*, 4th ed. (Syracuse, NY: Syracuse University Press, 1998).

[9] Lisa Anderson, "Fulfilling Prophecies: State Policy and Islamist Radicalism" in John L. Esposito, ed., *Political Islam: Revolution, Radicalism, or Reform?* (Boulder, CO: Lynne Rienner, 1997), 26.

[10] Sabah El-Said, *Between Pragmatism and Ideology: The Muslim Brotherhood in Jordan*, policy paper no. 3 (Washington DC: The Washington Institute for Near East Policy, 1995); Glenn Robinson, "Can Islamists Be Democrats? The Case of Jordan," *Middle East Journal* 51 (Summer 1997): 373–388; Malik Mufti, "Elite Bargains and the Onset of Political Liberalization in Jordan," *Comparative Political Studies* 32 (February 1999): 100–129; Quintan Wiktorowicz, *The Management of Islamic Activism: Salafis, the Muslim Brotherhood and State Power in Jordan* (Albany: The State University of New York Press, 2001).

[11] Christopher Alexander, "Opportunities, Organizations, and Ideas: Islamists and Workers in Tunisia and Algeria," *International Journal of Middle East Studies* 32 (November 2000): 465–490; Wiktorowicz, *The Management of Islamic Activism*; Ziad Munson, "Islamic Mobilization: Social Movement Theory and the Egyptian Muslim Brotherhood," *The Sociological Quarterly* 42 (Fall 2001): 487–510; Diane Singerman, "The Networked World of Islamist Social Movements" in Quintan Wiktorowicz, ed., *Islamic Activism: A Social Movement Theory Approach* (Bloomington: Indiana University Press, 2004), 143–163.

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participation in political alliances,[12] responses to economic liberalization,[13] and intra-movement competition.[14]

Even radical movements previously described as unflappable, ideological zealots trapped by rigid adherence to dogma are now analyzed as strategic thinkers. Shaul Mishal and Avraham Sela, for example, argue that Hamas strategically responds to changes in the political context.[15] Prior to the al-Aqsa intifada in 2000, the growing popularity of the Palestinian–Israeli peace process challenged the viability of Hamas. Strict intransigence toward peace was likely to erode support from a population that sought an end to the economic and social hardships of occupation, thereby threatening the organizational survival of Hamas. In response, Hamas tactically adjusted its doctrine to accommodate the possibility of peace by framing it as a temporary pause in the jihad. Mohammed M. Hafez uses an implicit rational-actor model to explain Muslim rebellions in Algeria and Egypt during the 1990s. He contends that violence erupted as a response to "an ill-fated combination of institutional exclusion, on the one hand, and on the other, reactive and indiscriminate repression that threaten[ed] the organizational resources and personal lives of Islamists."[16] To defend themselves against regime repression, the Islamists went underground and formed exclusive organizations, leading to a process of encapsulation and radicalization. Stathis N. Kalyvas views the Islamist-led massacres that plagued Algeria in the 1990s as strategic assaults intended to deter civilian defections "in the context of a particular strategic conjuncture characterized by (a) fragmented and unstable rule over the civilian population, (b) mass civilian defections toward incumbents and (c) escalation of violence."[17] Several scholars have argued that the tactic of suicide bombing is rational in that it helps Islamic (and other) terrorist groups achieve their group goals.[18] And Michael Doran conceptualizes al Qaeda as a rational actor, arguing that "when it comes to matters related to politics and war, al Qaeda maneuvers around its dogmas

[12] Benjamin Smith, "Collective Action with and without Islam: Mobilizing the Bazaar in Iran" in Wiktorowicz, ed., *Islamic Activism*, 185–204; Jillian Schwedler, "The Islah Party in Yemen: Political Opportunities and Coalition Building in a Transitional Polity" in Wiktorowicz, ed., *Islamic Activism*, 205–228.

[13] M. Hakan Yavuz, "Opportunity Spaces, Identity, and Islamic Meaning in Turkey" in Wiktorowicz, ed., *Islamic Activism*, 270–288.

[14] Janine Astrid Clark and Jillian Schwedler, "Who Opened the Window? Women's Activism in Islamist Parties," *Comparative Politics* 35 (April 2003): 293–312.

[15] Shaul Mishal and Avraham Sela, *The Palestinian Hamas: Vision, Violence, and Coexistence* (New York: Columbia University Press, 2000).

[16] Mohammed M. Hafez, *Why Muslims Rebel: Repression and Resistance in the Islamic World* (Boulder, CO: Lynne Rienner, 2003), 21–22.

[17] Stathis N. Kalyvas, "Wanton and Senseless? The Logic of Massacres in Algeria," *Rationality and Society* 11 (August 1999): 245.

[18] Ehud Sprinzak, "Rational Fanatics," *Foreign Policy* 120 (September/October): 66–73; Assaf Moghadam, "Palestinian Suicide Terrorism in the Second Intifada: Motivations and Organizational Aspects," *Studies in Conflict and Terrorism* 26 (March/April 2003): 65–92; Pape, "The Strategic Logic of Suicide Terrorism," 343–362.

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with alacrity."[19] In this understanding, "al Qaeda's long-term goals are set by its fervent devotion to a radical religious ideology, but in its short-term behavior, it is a rational political actor operating according to the dictates of realpolitik."[20]

Although these studies represent a clear departure from caricatures of zealots narrowly driven by grievances, they tend to focus on the group as the unit of analysis. In other words, tactics and activism are viewed as rational in the sense that they are effective means for promoting group goals. But what about the individuals who actually engage in activism on behalf of the group? Why do individuals within these groups voluntarily agree to engage in personally risky actions? In research on Islamic extremism, there has been surprisingly little research at the *individual* level of analysis from a rational-actor perspective.

In addressing this lacuna, our starting point is the rational-choice emphasis on individual strategies designed to produce personal payoffs. The strategy (or action) is the *best means* for the actor to achieve her most desired outcome or preference, given available information. Rational choice theory does not provide an explanation of preference formation, but rather offers a framework for explaining strategy choices under a given set of stable, ordered preferences. Rationality is evaluated in terms of whether the strategy is intended to obtain an individual's primary preference, not according to whether the preference itself seems reasonable to the outside observer. In other words, we cannot judge an action as irrational simply because we do not agree with the studied actor's preference ordering. As long as the actor committing the action believes that she is seeking to optimize her top preference, the individual is acting in a rational manner.[21]

So how does a rational-choice perspective help us understand the high-cost/risk activism of the activists in al-Muhajiroun and other radical Islamic groups? On the face of it, participation seems to defy the logic of collective action. Islamic radicals are, in essence, offering to produce collective goods that will benefit all Muslims: establishment of the Islamic state, expulsion of the United States from Muslim lands, divine justice, etc. This presents a classic collective action problem: why would individuals choose to contribute to the production of the collective good when they can free-ride off the efforts of others? This question is especially pertinent given the risks and costs associated with radical Islamic activism.

Rational-choice theory points to the use of selective incentives or side payments as means of inducing participation and overcoming the free-rider dilemma. These are benefits that individuals only accrue if they contribute to

[19] Michael Doran, "The Pragmatic Fanaticism of al Qaeda: An Anatomy of Extremism in Middle Eastern Politics," *Political Science Quarterly* 117 (Summer 2002): 178.

[20] Ibid., 182.

[21] Jon Elster, "Introduction," in Jon Elster, ed., *Rational Choice* (New York: New York University Press, 1986), 4.

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the collective good.[22] Although early models of rational choice assumed that individuals were primarily interested in maximizing some wealth function,[23] scholars have since expanded their view of human preferences. For example, rational-choice studies of voting behavior have focused on nontangible incentives to explain why an individual chooses to vote regardless of whether her vote is really likely to maximize the probability of producing a particular public policy outcome vis-a-vis the election. Voting is seen as providing nontangible psychological gratification for those who feel as though they are fulfilling their civic duty.[24]

Most radical Islamic groups offer a nontangible *spiritual* incentive to attract participants: participation produces salvation on judgment day and entrance to Paradise in the hereafter. The difference among Islamic groups is over *how the spiritual payoff should be pursued* (that is, strategy). Each proffers its ideology as an "efficient" (and often exclusive) path to salvation, which serves as a heuristic device for indoctrinated activists to weigh the costs and benefits of certain actions and behaviors. A cornerstone of these ideological templates is that individuals must face high risks and costs because God demands this as a condition for the spiritual payoff. In other words, radical Islamists choose to face great personal risks and costs because otherwise they are not pursuing their self-interest. Just as importantly, because individuals are judged as *individuals* on judgment day according to whether they personally followed the commands of God, free-riding jeopardizes salvation.

In this sense, even seemingly altruistic behavior can be understood as rational self-interest. A study of Mother Teresa, for example, argues that:

> While empathetic and self-sacrificial, Mother Teresa's charity ... was not altruistic, that is, motivated strictly by the desire to benefit the recipient without expectation of external reward. "Works of love," she laid down, "are always a means of becoming closer to God" (Mother Teresa 1985: 25).... Closeness to God, not the alleviation of human pain itself, was the preferred religious product. Indeed in Mother Teresa's assessment, poverty, suffering, and death were positive occasions of divine contact and imitation.[25]

This is not to argue that tangible selective incentives are irrelevant. Islamic groups in Egypt, for example, provide material incentives to attract supporters,

[22] Mancur Olson, *The Logic of Collective Action* (Cambridge, MA: Harvard University Press, 1965), 133–134.

[23] Gary Becker, "The Economic Approach to Human Behavior" in Jon Elster, ed., *Rational Choice*, 109.

[24] Brian Barry, *Sociologists, Economists, and Democracy* (New York: Macmillan, 1978); William Riker and Peter Ordeshook, "A Theory of the Calculus of Voting," *American Political Science Review* 62 (March 1968): 25–42; William Riker and Peter Ordeshook, *Introduction to Positive Political Theory* (Englewood Cliffs, NJ: Prentice Hall, 1973).

[25] Susan Kwilecki and Loretta S. Wilson, "Was Mother Teresa Maximizing Her Utility? An Idiographic Application of Rational Choice Theory," *Journal for the Scientific Study of Religion* 37 (June 1998): 211.

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including jobs, health services, education, day care, and financial support.[26] In Jordan, the Muslim Brotherhood's charity network provides patronage employment and selective access to goods and services.[27] Both Hamas and Hizballah provide social services and basic goods and services to communities and supporters. And there is evidence that at least some (although most likely a small minority) of those who joined the Armed Islamic Group in Algeria did so to obtain the economic benefits of insurgency, such as smuggling.[28] The point is not to dismiss these material payoffs, but rather to highlight the importance of nontangible incentives as well. This is particularly important when considering radical Islamic groups that offer few tangible rewards but demand risky activities.

We argue that in the case of al-Muhajiroun, the perceived spiritual payoffs outweighed the risks and costs associated with activism for those who chose to participate. Indoctrinated individuals viewed activism and even risk itself as means to achieve salvation and entrance into Paradise. Guided by the movement ideology, participants viewed suffering and effort as a testament to the certitude of belief (assurance that they would achieve the spiritual payoffs). From this perspective, the strategy of high cost/risk is strategically rational.

A Case Study: Al-Muhajiroun

Omar Bakri Mohammed (known as OBM) launched al-Muhajiroun (AM) in the UK in 1996 after leaving Hizb uh-Tahrir.[29] It subsequently became the most visible radical Islamic movement in the country and spread throughout the UK in a number of different cities and neighborhoods. AM also established branches in a variety of other countries, including Lebanon, Ireland, the United States, and Pakistan (this branch eventually claimed independence from the overall al-Muhajiroun movement), which were connected through cyberspace meetings, lectures, lessons, and public events.

After September 11, AM became a central focus in debates about political expression and national security in the UK because of its support for the use of violence. A core tenet of the movement was the use of military coups to establish Islamic states wherever there are Muslims, including Britain. It also condoned the use of violence against Western militaries operating in Muslim countries. AM activists encouraged Britons to fight for the Taliban against American-led forces in Afghanistan,[30] and AM issued a statement supporting

[26] Denis J. Sullivan, *Private Voluntary Organizations in Egypt: Islamic Development, Private Initiative, and State Control* (Gainesville: University of Florida Press, 1994); Wickham, *Mobilizing Islam*.

[27] Wiktorowicz, *The Management of Islamic Activism*, 83–110.

[28] Luis Martinez, *The Algerian Civil War* (New York: Columbia University Press, 2000).

[29] AM was originally formed in Saudi Arabia as a "cover" for Hizb uh-Tahrir activities during the 1980s, but OBM was forced to flee the country and settled in the UK.

[30] *The Observer*, 28 October 2001; *The Associated Press*, 7 January 2002; *Agence France Presse*, 4 December 2002.

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jihad against coalition forces in Iraq in 2003.[31] OBM and leaders in AM issued other controversial statements as well, including *fatwas* (jurisprudential opinions) condoning attacks against John Major and Tony Blair if they set foot in a Muslim country and a statement supporting the 1998 U.S. embassy bombings in Africa.[32]

Perhaps the most contentious action came a year after September 11 when AM sponsored a conference titled "A Towering Day in History" at the Finsbury Park Mosque, reflecting upon the consequences of the attacks and the aftermath for Muslims. The advertising for the conference was framed in such a way that it implied a "celebratory tone," and the press billed it as an event commemorating the triumph of September 11, which did not sit well with the public.[33] Eight months later, reports indicated a possible connection between al-Muhajiroun and the British suicide bombers who killed three Israelis during an attack on Mike's Place, a bar in Tel Aviv.[34] This was followed by advertisement for a second September 11 event titled "The Magnificent 19" (referring to the nineteen hijackers), which was prevented from being held.

In the UK, there were 160 "formal members" known as *hizbis* (partisans). The small number reflects a selective induction process: individuals only became members after the leadership was convinced that they had fully internalized the movement ideology. As OBM explained, a member of the movement "is an identical copy of the way I think, and he has my adopted culture [ideology], and he teaches it to the people."[35] These activists were qualified to develop and teach others: they were authorized to give lessons and to speak to the public on behalf of the movement. As "life cells," formal members were often sent to other countries to establish branches, indicating OBM's confidence in their ideological internalization.

There were also 700 "students," who took weekly lessons taught by OBM and the formal members. Although these students were not formal members, the vast majority participated in the array of movement activities and took on risk and cost on behalf of the cause. Some even held leadership positions. In the U.S. branch of the movement in the 1990s, for example, the al-Muhajiroun's spokesperson was not actually a formal member. He did not attend the formation meeting that established the branch in 1996, and lived in Springfield,

[31] Al-Muhajiroun, "Fight the Invaders vs. Stop the War," 20 March 2003.

[32] These statements were widely covered in the press and confirmed in the first author's interviews with Omar Bakri in 2002.

[33] See, for example, "Radical Muslim Clerics to Meet on Sept. 11 to Celebrate Anniversary of Attacks," *The Associated Press*, 7 September 2002; "London Rally to 'Celebrate' Terror Attacks," *Sunday Times*, 8 September 2002; "Fanatics to Meet to 'Celebrate' Twin Towers Terror Attacks," *Sunday Mirror*, 8 September 2002.

[34] "British Urged to Curb Anti-Semitic Incitement," *The Times*, 14 May 2003. Al-Muhajiroun responded to the reports by denying the connection ("Blatant Lies from the Sunday Times," al-Muhajiroun Press Release, 4 May 2003).

[35] First author's interview with Omar Bakri Mohammed, London, December 2002.

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Missouri, far away from the New York City branch headquarters and the movement leadership.[36] To confuse matters further, many of the students referred to themselves as "members," something the formal members encouraged to make students feel important.[37] To make some distinctions, in this article we use the term "activist" to refer to both formal members as well as committed students who participated in risky activism. "Member" refers only to those committed activists who actually went through the formal membership process (the *hizbis*).

At the periphery of the movement, there were thousands of "contacts," potential participants who attended a handful of lessons and events.[38] These contacts were, in effect, sampling al-Muhajiroun's activities to see whether they wanted to become more deeply involved. Although newspapers erroneously reported an estimated 7,000 al-Muhajiroun "members," this number probably accurately represented the number of contacts. Alone, however, the number tells us very little, inasmuch as it is impossible to determine the level of commitment within this aggregate. Some contacts may have come to a single public event. Others may have indulged in deeper religious sampling and may have progressed toward becoming actual students.

Participation in the high-profile and contentious activism of the movement carried a number of costs and risks for activists, particularly in the post-September 11 period. There were enormous commitments of time and energy, including religious training, outreach projects, and public demonstrations. Activists sacrificed relationships with former friends, family, and the mainstream Muslim community. And they were subject to an assortment of laws related to terrorism, treason, public order, and inciting religious and racial hatred. Arrests were common, and activists were conscious that their participation risked legal consequences. At first glance, it appears that they were engaged in irrational behavior that threatened self-interest.

Costs for the Commited Activist

Gregory L. Wiltfang and Doug McAdam argue that in deciding whether to participate in activism, individuals are influenced by a subjective assessment of costs and risks.[39] *Risks* are threats to an individual's well-being, such as threats to employment or physical safety. *Costs* are factors associated with the demands of participation that require the sacrifice of other commitments or interests. According to rational-actor models, we expect that individuals are unlikely to participate in high-risk, high-cost activism unless there is an off-

[36] First author's interview with this activist by phone, April 2003.

[37] First author's interviews with various activists, UK, March, June, and December 2002.

[38] First author's interview with Omar Bakri Mohammed, December 2002.

[39] Gregory L. Wiltfang and Doug McAdam, "The Costs and Risks of Social Activism: A Study of Sanctuary Movement Activism," *Social Forces* 69 (June 1991): 987–1010.

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setting payoff. From this perspective, the behavior of AM activists appears irrational at first glance, given the dangers and sacrifices derived from belonging to the movement.

Perhaps one of the most important indicators of high *cost* is the time commitment, as demonstrated by the dizzying array of weekly activities. Although these activities were only required for formal members, committed students participated in them as well, thus incurring the general time costs. So although the activities detailed below are outlined in terms of formal-member requirements, they were attended by activists in general.

Members were required to attend a two-hour study session held by the local *halaqah* (circle) every week, unless they were excused because of traveling needs, sickness of a family member, an emergency, or permission of the leader.[40] These circles were intensive, member-only religious lessons that revolved around the movement ideology, and students had to spend time preparing. Given the intensity of these sessions, a lack of preparation incurred the ire of OBM and social pressure from other participants, thereby discouraging consistent indolence.[41] The overall tone at these lessons was captured in the movement bylaws: "Each member must understand that the Halaqah is a serious discussion and not a chat."[42] Although the *halaqah* sessions were only scheduled for two hours, many ran much longer. The first author attended a Thursday session at the movement's headquarters that lasted from 9:00 p.m. until 1:30 a.m. Interviews with participants indicated that this particular lesson typically ran until 5:00 a.m.

Members were required to host at least one public study circle, which was advertised at the local mosque and in the movement newsletter; and there were numerous AM-sponsored public talks, *tafsirs* (explanations of Qur'anic verses), and community events, which were intended to draw interest from potential recruits.[43] Although some of these activities were not "required," all those interviewed stated that they tried to go to as many as possible, in some instances traveling with OBM throughout the country (usually during the evenings). The first author's own participation at public talks and community events in London, Slough, and Luton indicated that this was indeed the case.

Every Saturday, members were required to set up a *da'wa* (propagation) stall in their local community from 12:00 p.m. until 5:00 p.m. In reality, these tended to start a bit later (usually a half hour or an hour late) but generally lasted at least four hours. They were held outside local tube stops, public libraries, municipal buildings, and other public locales. The stalls reflected an activist *da'wa*, which centered on raising public awareness about the plight of Muslims and responsibilities in defending the global *umma* (Muslim com-

[40] Al-Muhajiroun, *The Administration of al-Muhajiroun*, no date.

[41] This pressure was observed by the first author at a movement-only lesson in June 2002.

[42] Al-Muhajiroun, *Administration*.

[43] Ibid.

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munity). Activists put up posters, chanted slogans, shouted through loudspeakers, and interacted with observers and passing pedestrians. In effect, these were small protest rallies, usually attended by about ten to twenty local activists.

Members also participated in weekly demonstrations that lasted approximately two hours. The particular topic of the protests varied from week to week, depending upon the "pressing issue" of the day, and they could be volatile events. At a rally outside the Pakistani embassy, protesters screamed "Musharaf, we are coming to kill you!" and chanted slogans, such as "Musharaf watch your back, Bin Laden coming back."[44] Other examples include demonstrations against the governments of Egypt, India, and Qatar. There were also a number of other required functions, including a monthly meeting of all members and special events (such as during Ramadan). In addition, the movement encouraged members to commit themselves to independent activities and community outreach (for example, following politics and news, studying the ideas of other movements, and promoting the movement ideology through interactions at work, school, and the mosque). This was based on movement principles about the necessity of action and outreach;[45] and interviews indicated that movement members were dedicated to more than the bare minimum and voluntarily promoted the movement ideology in every aspect of their lives. One must also take into account routine Muslim rituals (prayer, fasting during Ramadan, etc.) and social interactions with other members, which often involved religious discussion, movement planning, and solidarity building. Considering that most members had jobs or were in school, this was an enormous sacrifice of time.

There was a set of disciplinary measures that provided sanctions for members who did not attend the required activities.[46] For example, if on three separate occasions within a single year a member failed to attend the *halaqah* or monthly gatherings or refused to distribute movement materials or attend movement activities (without a good excuse), the disciplinary proceedings called for the "complete expulsion from all Halaqah and closed monthlies and exclusion from all Administrative procedures of Al-Muhajiroun (including informing him/her about Al-Muhajiroun activities) for a period specified by the Mu'tamad [the leader responsible for the country branch of the movement]."[47] In some cases, an individual might have legitimately believed he or she had a valid excuse. If the leadership did not agree, however, the individual was temporarily excluded from all *halaqahs* and closed monthlies for a minimum period of one month. In this case, the leader could also levy a modest fine before readmitting the offender.[48]

[44] This event was tape-recorded by the first author.

[45] Al-Muhajiroun, *Administration*.

[46] Ibid.; first author's interviews with leaders and other members, 2002.

[47] Al-Muhajiroun, *Administration*.

[48] Ibid.

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These sanctions were for *formal* members alone; and although this implies the importance of sanctions in motivating action, as Mancur Olson argues for small group dynamics, the fact that activists who were *not* formal members participated in many of the risky and costly activities indicates that there must have been some other incentive.

To maintain the flexibility necessary for the frenetic schedule of movement activities, some activists chose less-lucrative employment opportunities (part-time jobs, for example), thus incurring a material cost. Members were also required to pay dues and donate a portion of their salary to the movement, because AM was self-funded.[49] The donation was according to the individual's ability to pay (it generally seemed to follow the calculations used for Islamic charity).

Time commitments and the ideological views of the movement frequently produced social costs, the most important of which was related to family pressures. Almost uniformly, respondents in this study noted their parents' opposition to activism. Parents did not object to religious education per se, but they believed in a personal, apolitical Islam and set different goals, such as getting *halal* (religiously permitted) food in schools.[50] Some concerned parents contacted Zaki Badawi, founder of the Muslim Council of Britain, and asked him to intervene after discovering their children's involvement.[51] This kind of family opposition created social pressure not to participate.

Nonetheless, activists defied their parents and participated. As one respondent put it, "They warn you and say don't go with these people, but then they see you are firm and what can they do?"[52] A Somali member reiterated this sentiment: "If the boys are convinced, the parents can't do much. They can tell them not to go, but they can't stop it."[53]

One rather common way that activists attempted to avoid familial friction was by hiding their involvement.[54] This, however, did not necessarily eliminate the social cost, because the ideology required propagation, leading to heated debates with family members. There is little evidence that traumatic altercations shattered families or created irreconcilable differences, but they certainly

[49] In an effort to maintain its independence, AM relies solely on its membership for funding and has, at least according to one member, turned down some sizable donations, including one from the Iranian government.

[50] For the typical concerns of Muslims in the UK, see Tariq Modood, "The Place of Muslims in British Secular Multiculturalism" in Nezar Al Sayyad and Manuel Castells, eds., *Muslim Europe or Euro-Islam: Politics, Culture, and Citizenship in the Age of Globalization* (Lanham, MD: Lexington Books, 2002).

[51] First author's conversation with Zaki Badawi, London, June 2002.

[52] First author's interview with Hassan, London, June 2002. Note: for rank-and-file members, pseudonyms or other anonymous indicators are used to protect the privacy of respondents.

[53] First author's interview with Somali member, London, June 2002.

[54] First author's interviews with Somali member, Kamal, and Mohammed (movement leader), London, June 2002.

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produced tensions. One joiner recalled that because his father "stands with Union Jack," they used to have rather heated discussions.[55] Another recounted a story in which he shocked his extended family as they discussed the stand-off between Pakistan and India in 2002 by boldly declaring his support for nuclear war. This, he argued, was a religious obligation and for the sake of Islam. His father was a staunch supporter of Britain, and this created a great deal of consternation.[56] These types of interactions indicate that although parental ignorance about participation may have softened family pressure, it was unlikely to eliminate the cost altogether.

Risky Activism

All public displays of activism entail some risk, whether it is the possibility (even if remote) that a rally will degenerate into chaos or (in more extreme cases) result in death. One common measure of risk in studies of protest is the perceived possibility of arrest.[57] By this measure, the personal risk for those involved in AM was high. Large numbers of movement activists were arrested, and each public event was seen as a risky venture in which police intervention and arrest (or at least threats of arrest) were possible. The risks became accentuated in the post-September 11 period because al-Muhajiroun was often accused of supporting terrorism.

Arrests (or threats of arrest) frequently occurred at the *da'wa* stalls. It was not the act of protesting itself that raised risk but rather the presentation of grievances. Activists used "moral shock"[58] to evoke emotional responses and elicit sympathy for the cause, whether it was the plight of Iraqis, the Israeli occupation of Palestinian territories, or Indian repression in Kashmir. Pictures are more effective in generating visceral responses from observers, so AM activists used shocking pictures of mutilated and decapitated bodies. Pictures of malnourished or mutilated children were common because they evoked the most consistent emotional response, regardless of whether observers were Muslim. These pictures, more than anything else, drew the ire of police, who were frequently in attendance at the stall or were called in by local business owners and concerned citizens. Altercations with police over whether the pictures were "free speech" often led to arrests.

This was confirmed by observations at a *da'wa* stall outside a public library in London. About ten activists gathered around a display table and an easel adorned with grotesque pictures of the "oppressed": mutilated bodies

[55] First author's interview with Rajib, Slough, June 2002.

[56] First author's interview with Khalid, London, June 2002.

[57] See, for example, Wilftang and McAdam, "The Costs and Risks of Social Activism," 987–1010.

[58] James M. Jasper and Jane Poulsen, "Recruiting Strangers and Friends: Moral Shocks and Social Networks in Animal Rights and Anti-Nuclear Protests," *Social Problems* 42 (November 1995): 493–512; James M. Jasper, *The Art of Moral Protest: Culture, Biography, and Creativity in Social Movements* (Chicago, IL: University of Chicago Press, 1997).

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from the alleged Israeli "Jenin massacres" (the UN did not find any evidence to support the accusations).[59] The pictures, to say the least, were shocking images—an old man with half his face missing, children with massive injuries, and bodies with organs exposed through the skin. The graphic nature of the pictures prompted a flood of calls to the police,[60] and six officers responded and arrived at the stall about an hour after it opened. The protesters were told that they could continue their message verbally and use pictures of bombed buildings, but that they had to remove the pictures of the mutilations. A heated argument ensued. The demonstrators argued that they were merely showing "the truth" (facts that the Western media refused to publish) so that people would understand what was happening to Muslims worldwide. The police retorted that the pictures were offensive and that because they were being displayed in a public place, bystanders (including children) had no choice about exposure. The argument was impassioned, and the police threatened arrest. In this particular case, the pictures were taken down. AM activists cited the confrontation as another example of Western repression against Muslims. Interviews with various members of AM, a police officer at the scene, and eight participants at the stall indicated that this kind of altercation was common. Demonstrators were most frequently arrested under the Public Order Act, which provided wide latitude for police officers at the scene to determine whether it represented a public disturbance warranting arrest.[61]

There are other instances in which activists faced risk because of the content of the message. In one example, two members were arrested under the Public Order Act at a protest against homosexuals, because of a leaflet entitled "Gay Today, Pedophile Tomorrow?" They were both convicted and fined £160.[62] Another activist was arrested during a verbal tirade against Israel.[63] In a famous case, Iftikhar Ali, a movement leader, was arrested after distributing leaflets quoting passages from the Qur'an in a context that authorities interpreted as a threat against the Jewish community. He was found guilty of inciting racial hatred (Jews are considered an ethnic group under UK law) and sentenced to a £3,000 fine, a £1,500 reimbursement cost, and 200 hours of community service.[64] Several members lost employment as a result of their activism (religious discrimination is not currently covered by British law). And there was the ever-present risk of arrest under the new terrorism laws.

[59] For more on the Israeli incursion into Jenin, see Human Rights Watch Report, "Jenin: IDF Military Operations," May 2002, accessed at http://www.hrw.org/reports/2002/israel3/, 18 April 2006.

[60] First author's interview with the lead police officer at the scene, London, June 2002.

[61] Ibid.; first author's interviews with AM members, London, 2002.

[62] First author's interview with one of the arrested activists, London, June 2002.

[63] First author's interview with this activist, London, June 2002.

[64] See http://news.bbc.co.uk/2/hi/uk_news/england/1966839.stm, accessed 18 April 2006.

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Anjem Choudary, the leader of the UK branch of AM, aptly summarized the risks and costs of participation:

> Being part of al-Muhajiroun is not really the most prestigious thing. People don't become a part and say "mashallah" [what God has willed, indicating a good omen] and go around saying I am a member of al-Muhajiroun because obviously we get attacked by the government and our members are arrested regularly at demonstrations and at stalls because they speak out openly and publicly about what they believe. They might get arrested because they talk about homosexuality or they might think he is a homophobe or think he is racist and anti-Semitic because he is talking about Palestine. We have had a number of prosecutions. You met Iftikhar Ali. He is the first person in this country to be arrested for incitement to religious hatred for quoting a verse from the text [Qur'an] which was considered to be racist. This has never happened before. It is a landmark decision and he is a member of our organization. If they join and stay that is because they believe in the cause, they believe in the struggle. We ask our members to interact with the culture and to go out regularly on talks and demonstrations, and they will attend weekly and monthly gatherings, and a fair amount of their time will be taken up. And obviously they will be asked to contribute financially as well, because we don't receive any finances from the government. We contribute ourselves.[65]

In addition to the costs and risks of activism, there is an important question as to whether there would be a payoff in which the movement achieved its goals. Although AM may have affected the political views of some Muslims, its prospects for success in the UK were minimal, given that a primary stated goal was the establishment of an Islamic state in Britain. Even OBM recognized the futility: "Practically, it is not going to happen except in a Muslim country."[66]

The sense that activism was against individual self-interest is deepened by the availability of other fundamentalist groups whose activities entailed fewer risks (and lower costs, in some cases), including Hizb uh-Tahrir, Jama'a Tabligh, and various reformist Salafi groups, such as those at the Brixton Mosque and Jam'iat Ihyaa' Minhaaj al-Sunnah. In fact, AM offered very few unique selective incentives. For example, solidary incentives derived from group identity, social interactions, and religious activities were offered by other fundamentalist groups, including moderate movements. There were no material incentives, in the sense of magazines or concrete outputs available only to formal members. And other movements and groups offered similar purposive incentives because of their fervent religious missions. According to AM members themselves, all of the fundamentalist movements (moderate and radical, including AM) shared about 95 percent of the same religious precepts. So why take on the costs and risks? Without making a tautological argument (and implying that somehow radicals are deviants and psychologically disturbed

[65] First author's interview with Anjem Choudary, by phone, June 2002.
[66] First author's interview with OBM, London, June 2002.

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because they get a psychological payoff from engaging in risky behavior), the observer is left with the initial impression that this behavior violated the principle of self-interest and thus reflects the irrationality of zealotry.

Spiritual Incentives and High-Cost/Risk Activism

To make sense of why individuals would still participate in such activism, regardless of high costs/risks and the prospects for free-riding, one must address activist views of incentives and strategic assessments of utility. These were rooted in the movement ideology, which offered guidelines about what activists must do to achieve salvation. Deviations from the ideological proscriptions were interpreted as threats to an individual's utility maximization and desire to be saved on judgment day.

The cornerstone of AM's ideology was its particular understanding of *tawhid*—the oneness of God. *Tawhid* begins with the *shahada*, or testimony of faith that signals a conversion to Islam: "I testify that there is no God except Allah and that Mohammed is His messenger." It defines God as the only true lord and sovereign of the universe worthy of worship. The Qur'an and *hadiths* (recorded traditions of the Prophet) are filled with dire warnings about the consequences for those who violate *tawhid* by ascribing partners to God (*shirk*) (in other words, polytheism):

> Lo! Whoso ascribeth partners unto Him, for him Allah has forbidden Paradise. His abode is in the Fire. For evil-doers there will be no helpers (Qur'an 5:72).
> Lo! Allah forgiveth not that a partner be ascribed Unto Him. He forgiveth (all) save that to who He will. Whoso ascribeth partners to Allah, he hath indeed invented a tremendous sin (Qur'an 4:48).

Although all Muslims accept the general principle of *tawhid*, there are differences over its precise meaning and application. Many Islamic fundamentalists, for example, reject traditional Sufi practices, such as praying at the tombs of saints, as examples of *shirk*. Even within the Islamic fundamentalist community there are differences. Some Islamic activists, for example, accept the possibility of working through democratic institutions, whereas others view adherence to man-made law as egregious *shirk*. What constitutes *shirk* is a matter of contention among Muslims.

For al-Muhajiroun activists, every action, decision, and behavior was seen as an act of worship if it was in accordance with divine law. Any deviation from the straight path of Islam, in contrast, represented a violation of *tawhid*. Those who adhered to *tawhid* gained entrance to Paradise; those who engaged in *shirk* would suffer the hellfires:

> Tawheed prevents man from eternally remaining in the Hellfire. The Prophet Mohammed (SAW) stated in an authentic report: Whoever dies and has so much as a mustard seed of faith in his heart shall enter al-Jannah [the garden of Paradise]. Faith here signifies a correct belief in Allah and His Messenger

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> Mohammed (SAW) and all that they instructed, commanded and prohibited for mankind."[67]

The calculus for individuals is clear: follow the divine rules and receive a spiritual payoff; remain deviant and suffer eternal consequences. But what are the divine rules and how does an individual Muslim identify proper adherence? Islamic movements offer religious interpretations represented in ideologies as guidelines to answer this question. These ideologies are, in essence, outlines of strategies for obtaining the spiritual payoff—what individuals must do to ensure salvation.

All Islamic fundamentalist groups base their proffered strategies on the model of the Prophet Mohammed—the Muslim exemplar whose path (*Sunna*) is considered the perfection of Islam in practice. There are divergences, however, over the specifics of the prophetic paradigm and its application in the contemporary context. Each group believes it is following the proper model and interpretation, and these differences matter in terms of the potential for salvation. The Prophet predicted that the Muslim community would fracture into sects after his death and warned his followers to remain focused on his example and the Qur'an for guidance: "I am leaving you two things and you will never go astray as long as you cling to them. They are the Book of Allah and my Sunnah."[68] Many fundamentalist groups believe that there is one correct understanding of the straight path of Islam; ipso facto, all others are deviations and will not receive divine reward. This thinking is based upon authentic *hadiths*, such as "And this Ummah will divide into seventy-three sects all of which except one will go to Hell and they are those who are upon what I and my Companions are upon."[69] Many groups consider themselves to be this "saved sect" (*firqa al-najiyya*) and therefore argue that their adherents will be saved on judgment day.

Al-Muhajiroun's particular interpretation of the model and its relevance for salvation was aptly captured by Omar Bakri Mohammed:

> The [prophetic] methodology is the only way. If I follow it, I remove the sin from my neck. The only way of accepting His command [God] is by following the methodology of the messenger of the Prophet Mohammed. So the Prophet he cultured society; he exposed man made law in society (commanding good and forbidding evil); and he sought support from those sincere [Muslims in the army] who accept Islam from him and give him power from the army. This is the only way we can remove the sin from our neck.[70]

OBM and other AM activists concluded that the only way for individuals to ensure personal salvation was to engage in these activities so as to "remove the

[67] Omar Bakri Mohammed, *Kitab ul-Imaan*, movement training manual, n.d., 17.

[68] As quoted in Jam'iat Ihyaa' Minhaaj Al-Sunnah, *A Brief Introduction to the Salafi Da'wah* (Ipswich, UK: Jam'iat Minhaaj Al-Sunnah, 1993), 5.

[69] Ibid., 3.

[70] First author's interview with Omar Bakri Mohammed, December 2002.

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sin" from their necks. Thus, regardless of the risks and costs, individuals had to promote a proper understanding of Islam (a radical interpretation that included support for *jihad* against the United States, Russia, Israel, and others); publicly denounce un-Islamic behavior (including democracy) through overt activism; and work to establish the Caliphate (Islamic state) by means of a military coup (even in the UK).

Al-Muhajiroun argued that because the Prophet accomplished these duties by working with a group, individual Muslims must do likewise to "remove the sin" from their necks and receive a payoff in the hereafter. The AM ideology distinguished between divine duties that can be fulfilled as an individual and those that can only be fulfilled by working with other Muslims. The central argument is that the Prophet and his companions worked as individuals when they addressed *individuals*, but formed collectivities when addressing society. The various divine duties of activism, in particular, were fulfilled by working as groups. For AM, this was reflected in Qur'an 3:104: "Let there rise from among you group(s) calling society to Islam, commanding society to do what Allah orders and to refrain from what He forbids and these (group(s)) are the ones who are successful" (AM translation).

The emergence of a group, however, is not enough to remove sin. Those who fail to participate remain sinful and thus are not part of the saved sect. More importantly for a rational-choice perspective, group membership or belonging alone does not produce the desired spiritual payoff. The group is merely a vehicle for fulfilling individual obligations, so individuals still must engage in the methodology and fulfill duties to remove the sin from their necks. As Omar Bakri explained:

> If any one of them or some of them did a duty or engaged in any duty e.g. political struggle in any part of the world, it does not mean that all of them are rewarded for it, nor does it mean that all the members are fulfilling their duties, rather those who did it alone will be rewarded and will remove the sin from their necks whereas the others remain sinful if they did not fulfill their duties.[71]

This is because, as Omar Bakri argued, "Allah (swt) will account as individuals [on Judgment Day], not as an entity."[72] Where salvation on judgment day is a concern, this ideological precept essentially undermined the potential for free-riding within the group. Each individual had to engage in activism within the group, because he or she would not benefit from the work of others. Only active participants received the payoff. Anjem Choudary, the UK leader of al-Muhajiroun, nicely summarized the spiritual incentive for joining the movement: "The only benefit that they [the activists] have, which is a great benefit unto itself, is that they fulfill a duty and ultimately will be rewarded in the hereafter. We don't pretend they are going to get anything apart from that."[73]

[71] Omar Bakri Mohammed, Questions and Answers, "Is the group an entity?" n.d.

[72] Ibid.

[73] First author's interview with Anjem Choudary.

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A refusal to replicate the model in terms of the method (working with a group) or the specific duties jeopardized an individual's status in the hereafter. In effect, such a refusal was a rejection of *tawhid* and thus evidence of apostasy.[74]

Within the mechanism of the group, individuals had to fulfill three primary divine duties: educate Muslims about proper Islam (i.e., the movement ideology), including exhortations to *jihad*; actively command good and prevent evil through overt (and controversial) activism; and struggle to establish an Islamic state through a military coup. First, individuals had to engage in *tarbiya* (culturing society in proper Islamic belief and behavior) and *da'wa* (propagation). For al-Muhajiroun, this necessitated lessons and activities to teach people about their divine duties and responsibilities as Muslims, according to movement precepts. An important component of this was promoting support for *jihad* against infidels in Muslim lands as an individual Muslim obligation: "Any aggression against any Muslim property or land by any Kuffar [unbelievers] or non-Muslim forces whether American, British or Jews of Israel makes Jihad (i.e. fighting) against them an obligation upon all Muslims."[75] This mandated armed struggles against the Russians in Chechnya; the United States in Afghanistan, Iraq, and Saudi Arabia; India in Kashmir; Israel (both in the occupied territories and the state of Israel, which AM considered Muslim territory); and the United Nations (specifically in Iraq).[76]

Because *tawhid* demands the full application of divine law, al-Muhajiroun argued that all Muslims are obligated to fulfill the responsibility of *jihad* or risk jeopardizing salvation. Omar Bakri was explicit about this utility calculation at a conference titled "Terrorism and Osama Bin Laden" held in East London in 2000: "You all have an obligation to support the jihad. Or you will be punished on the Day of Judgment! You will get a reward for fighting. You must send your children to jihad."[77] Obviously, calling for such action amounted to support for terrorism and, in certain instances, even implied sedition when the call to *jihad* involved British interests, but the risks were acceptable for those who calculated costs and benefits in terms of the hereafter.

To save themselves and fulfill their duties toward *jihad*, AM activists practiced what they preached by providing not only verbal support but financial and physical assistance as well. AM openly raised money for *jihads* throughout the Muslim world, especially for Chechen rebels, *jihadis* in Kashmir, and *Hamas* in the Palestinian territories. Changes in anti-terrorism laws, however, made this fundraising illegal. Interviews with Omar Bakri indicate that financial sup-

[74] Under many understandings of Islamic law, the ultimate sanction for an individual convicted of apostasy is death, although this is rarely enforced in practice.

[75] Shari'ah Court of the UK (an al-Muhajiroun organization headed by Omar Bakri), "Fatwa against the Illegitimate State of Israel," n.d.

[76] See, for example, Shari'ah Court of the UK, Case No. Russia / F41, Fatwa Concerning the Russian Aggression, n.d.; Shari'ah Court of the UK, Fatwa on Jihad against the Illegitimate State of Israel; al-Muhajiroun Press Release, "The United Nations—A Legitimate Target?" 25 August 2003.

[77] Aaron Klein, "My Weekend with the Enemy," *The Jerusalem Post*, 30 May 2000.

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port for the struggles might still have occurred through charity front organizations, which raised money for general "charitable" purposes. A number of activists actually went to fight in the *jihads*, not as representatives of al-Muhajiroun as an organization but as individuals fulfilling their personal duty to God "to support their Muslim brothers and sisters."[78]

The second divine duty fulfilled through the group was the command to promote virtue and prevent vice (*al-amr bi'l-ma-ruf wa'l-nahy 'an al-munkar*). Activism to fulfill this obligation was a required duty that must be fulfilled to follow *tawhid* and remain a Muslim. The movement cited the following *hadith*: "There is no prophet that Allah sent before me but he had supporters and companions who did what he said and obeyed his commands. After them there are many successors and they will say what they don't do and do what Allah forbids. Whoever fights them with his hand is a believer, whoever fights them with his tongue is a believer, whoever fights them with his heart is a believer and if you do nothing you can't claim you are a Muslim."[79] The punishment for those who failed to rise is the hellfires. The true believers and activists would receive eternal reward.

The third divine duty was to work for the reestablishment of the Caliphate (Islamic state). Once again, this duty was posited in terms of individual interest in removing sin to ensure personal salvation. Al-Muhajiroun argued that initially, after the collapse of the Caliphate in 1924, its reestablishment was a collective duty (*fard kifaya*), meaning an obligation that can be fulfilled by some on behalf of the *umma*. However, after a period of time without an Islamic state, "working to establish the Khilafah [Caliphate] [becomes] Fard [a divine duty] upon all Muslims (i.e., Fard Kifayah Muhattam) or a sufficient duty binding immediately without a time limit upon all Muslims and those who engage in it remove the sin and the burden on their necks until they accomplish the task. Whereas those who do not engage in working to establish the Khilafah nowadays are sinful [except for those exempted in sharia]."[80]

For AM, the proper method for establishing the Islamic state was a military coup. As a result, activists contacted members of the military in an attempt to foment a military rebellion that would seize power and establish the Caliphate. Because the religious sources did not specify a particular locale for the Islamic state, Muslims were obligated to work to establish it wherever they lived, including the UK.

In terms of individual calculations, it is irrelevant whether the prospects were likely to succeed. Omar Bakri readily admitted that the establishment of an Islamic state in the UK was highly unlikely. But success did not matter, because individuals are judged on the basis of whether they *worked* to establish

[78] Al-Muhajiroun press release, November 5, 2001.

[79] Omar Bakri Mohammed, *Jihad: The Method for the Khilafah?* (London: MNA Publications, no date), 19.

[80] Omar Bakri Mohammed, Questions and Answers, "Are we obligated to work for the Khilafah?" n.d.

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the Caliphate. In other words, salvation does not hinge upon whether activists actually succeeded in reaching stated movement goals; they are judged according to whether they worked toward these objectives. The duty is the effort and not the outcome of collective action. The Qur'an emphasizes that divine reward and punishment are meted out according to whether individuals "go forth in the cause of Islam" (that is, exert effort):

> O ye who believe! What is the matter with you, that, when ye are asked to go forth in the cause of Allah, ye cling heavily to the earth? Do ye prefer the life of this world to the Hereafter? But little is the comfort of this life, as compared with the Hereafter. Unless ye go forth, He will punish you with a grievous penalty, and put others in your place; but Him ye would not harm in the least. For Allah hath power over all things (Qur'an 9:38–39).

When asked about whether a demonstration in front of the Indian embassy attracted much attention and support, Anjem Choudary could thus dismiss the importance of a large showing and media coverage as relatively irrelevant, because he "had fulfilled [his] duty to command good and forbid evil."[81]

Rational-choice studies of rebellion have argued that individuals assess the prospects for success when deciding whether to participate;[82] but in the case of radical Islam, this outcome may be less important. At the individual level, the primary objective is not the establishment of an Islamic state or the success of a demonstration. These are only ways of fulfilling obligations to God, which, in turn, is the only way to achieve salvation. In terms of personal calculations, the very act of participation in itself produces the payoff in the hereafter.

Not only is high-cost/risk activism necessary to produce the desired outcome, but the act of suffering itself is viewed as a divine signal that the activist is on the right path and will achieve salvation as part of the saved sect. The Prophet initially suffered at the hands of the Quraysh (the dominant tribe in Mecca), yet continued to fulfill his obligations to God. AM activists emphasized that regardless of the difficulties, true believers speak out:

> The Prophet [Mohammed] and all the Anbiyya [Prophets], all the Sahabas [Companions], they got tortured, they struggled, they went through pain. For what? Was it because they testified? It was because they implemented in action. The Lord said "Why do you say something that you do not do, you do not act upon?" When we see the Prophet Mohammed, and the Anbiyya, and the Sahabas, they struggled, they did da'wa, they commanded good and forbid evil, they exposed

[81] First author's interview with Anjem Choudary.

[82] Susanne Lohmann "A Signaling Model of Informative and Manipulative Political Action," *American Political Science Review* 88 (June 1993): 319–333; Susanne Lohmann, "Dynamics of Informational Cascades: The Monday Demonstrations in Leipzig, East Germany, 1989-1991," *World Politics* 47 (June 1994): 42–101; Karl-Dieter Opp, *The Rationality of Political Protest: A Comparative Analysis of Rational Choice Theory* (Boulder, CO: Westview Press, 1989); Karl-Dieter Opp, Peter Voss, and Christiane Gern, *Origins of a Spontaneous Revolution: East Germany, 1989* (Ann Arbor: University of Michigan Press, 1993).

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> the idolatry of the society, and they introduced the shahada. But no one is doing that today. This is an obligation that is upon every single Muslim when they see *munkar* [evil]. When they see evil and corruption, it becomes an obligation.[83]

This historical precedent was used for *qiyas* (reasoning by analogy), whereby hardships were interpreted as evidence that they were on the right path. In other words, what rational-actor models typically view as risks and costs associated with activism were in fact benefits to the AM participant who viewed them as confirmation of the correctness of belief:

> Al-Muhajiroun says, "Look at the Prophet Mohammed, he went to Taif, and he got stones thrown at him." I think why did he get stones thrown at him and we aren't getting stones thrown at us? So when I see the police and they come to us and speak to us, I say "*alhamdulillah* [praise be to God], we are on the right path." If they didn't come to us and said we are very nice people, we are wrong, because Allah said in the Qur'an: the Jews and Christians will never be happy with you until you follow their way of life.[84]

Activists believed that if the authorities treated them well, it was a sign that they were on the wrong path. The Prophet was attacked by the authorities of his day. Obviously, he was on the straight path as the messenger of God, and the authorities were unbelievers. Drawing an analogy to the present, activists believed that if the police or government accommodated a movement, it was a sign of incorrect beliefs. This was reflected in AM's disdain for the Muslim Council of Britain and scholars and movements throughout the Muslim world that cooperate with regimes. The ideology framed overtures and friendly gestures by the authorities as signs of an insidious plot to destroy the truth of Islam, based upon Qur'an 9:8: "Verily if the unbelievers have authority over you, they will not respect you any trust, agreement, or covenant. With their mouths they will have fair words in front of you but their hearts are averse from you and most of them are rebellious, betrayers, and wicked" (AM translation). As one respondent put it:

> I feel good because I feel that [our way] is the only way, because the only way to be a good Muslim is like this—as long as someone is struggling and finds everything against him, then that person is on the right path. The only way to know that someone is really on the right path is, for example, that all the leaders are against him, all the government people are against him. And they don't compromise. So as long as someone is trying and struggling then hopefully he is on the right path. The Prophet he was like that as well. Everyone was against him. He got kicked out of his home land, Mecca, and he had to go to Medina. So that is the way we look at it.[85]

In addition, respondents also maintained that suffering was part of a more general test of certitude and commitment. One activist argued that "it is a test

[83] First author's interview with Somali member.
[84] Ibid.
[85] First author's interview with sixteen-year-old member, London, June 2002.

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for everyone. And Allah even said that there will be a time when the majority of people will leave Islam or will neglect Islam, and that He will replace people with those who fulfill his command."[86] Others referred to an oft-quoted *hadith* as evidence of the test of will: "Hold all of you fast to the rope of Allah and do not separate yourselves."

As a result, activists reveled in their tales of confrontation with the police as proof of their own beliefs and eventual salvation.[87] Suffering was affirmation, and movement participants saw themselves as following in the Prophet's shoes, in a way living his experience in modern times. The fact that the activists were condemned by the mainstream Muslim community furthered their conviction and certitude, because the Prophet and his companions were a minority in a sea of *jahiliyya* (disbelief). This produced quite a heady sense of purpose and certitude in a mission that was seen as providing activists with strategies for producing the spiritual payoff.

Comprehending radical Islam necessitates rendering individual decisions about participation and behaviors intelligible. Although recent work has shown that extremism is strategically rational at the group level, there is far less theorizing and data about the individual level of analysis. To address this, we have offered a rational-choice explanation that focuses on spiritual incentives. Radical Islamic movements offer an important spiritual incentive: join the group and engage in risky and costly activism and receive eternal salvation as part of the saved group.

This challenges perspectives that dismiss the possible usefulness of a rational-actor approach to Islamic activism. Roxanne Eueben, for example, argues that "even the most austere version of rational actor theory has very little to say about fundamentalism because, given its basic assumptions, it concludes only that fundamentalists have a revealed preference for fundamentalism."[88] But this kind of argument confuses religious methods with goals or interests. The preference is not for fundamentalism. Fundamentalism is a strategy or method for obtaining the preference of salvation as an end. It is a way of approaching religious interpretation that emphasizes literalism and strict adherence to *tawhid*. Activists follow this interpretive approach because they view it as an exclusive strategy for the pursuit of Paradise. If we recognize that value and instrumental rationalities are frequently related, radical Islamic activism becomes intelligible within a rational-actor framework.

We fully recognize that not everyone who participates in radical Islamic groups is driven by spiritual desires. It is folly to assume uniformity. In addition, there are almost certainly important differences between the utility calculations of leaders and those of followers and affiliates. This, of course, is open

[86] First author's interview with Islam (local leader), London, June 2002.

[87] This was observed by the first author in several instances, including a large gathering of members prior to a lesson, where they swapped stories about confrontations with police.

[88] Roxanne L. Euben, *Enemy in the Mirror: Islamic Fundamentalism and the Limits of Modern Rationalism* (Princeton, NJ: Princeton University Press, 1999), 33.

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to empirical investigation. Our point is to initiate a broader understanding of rational action in the study of radical Islam by emphasizing the role of beliefs and relationships among ideology, individual utility calculations, and behavior. If we accept that religion does matter, seemingly irrational behavior becomes understandable as a rational choice.

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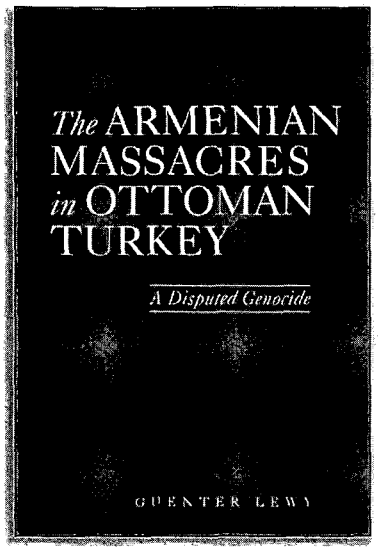

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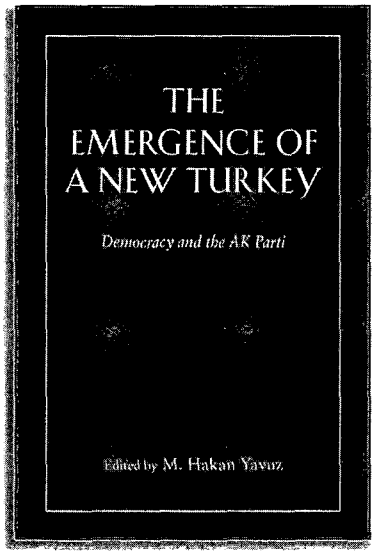

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Book Reviews

The Cold War: A New History *by John Lewis Gaddis. New York, Penguin Books, 2005. 352 pp. $27.95.*

Students of the Cold War have good reason to be indebted to John Lewis Gaddis, who preceded the work reviewed here by publishing six books on that near-half-century confrontation, including such landmarks as the 1972 "post-revisionist" classic *The United States and the Origins of the Cold War* (New York: Columbia University Press) and the conceptually innovative 1982 *Strategies of Containment* (New York: Oxford University Press), which appeared in an updated edition in 2005. Gaddis's ability to address important issues with impressive fluency and insight makes him one of the rare academics whose works receive respectful attention in the public press. These qualities also have led his books to be widely assigned in college and university courses. *The Cold War: A New History*, however, is the first book Gaddis has explicitly addressed to students and the general public. His particular concern, he explains, is with reaching readers who are too young to have experienced the conflict as it unfolded.

Has he succeeded in writing a work that can be recommended to the uninitiated? The answer would be yes, if one judges by its initial reviews in current affairs periodicals. Sixteen of the eighteen early reviews that appear on the website http://www.metacritic.com/books/authors/gaddisjohnlewis/coldwar were judged by the webmaster to be positive, two as mixed, and only one as negative. But for specialists whose concern is with the book's suitability as an introductory account of the Cold War, the answer is likely to be no.

For some of the latter, the objection will be its celebratory tone. Not everyone will want to assign a work that declares in its opening passages that "the world is a better place" for the Cold War "having been ... won by the side that won it" (p. xi). However, the book has a more fundamental pedagogical shortcoming. In a puzzling statement for the author of a number of excellent narrative histories, Gaddis declares that "any attempt to capture" the Cold War "within a simple chronological narrative could only produce mush," explaining that he has therefore chosen "to focus each chapter on a particular theme" and allow the book's chapters to "overlap in time and over space" (p. xi).

The resulting volume brings to mind an unassembled jigsaw puzzle. Deprived of the discipline of chronology, it moves from event to event with no

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obvious plan, rarely developing an episode or theme thoroughly enough to provide the reader with an adequate understanding of it. Gaddis's impressionistic exposition serves the reader poorly on matters that range across the period of his concern and include such momentous topics as the end-of-war conferences between Joseph Stalin and his Anglo-American counterparts, the trajectories of the Korean and Vietnam Wars, the successive American national security postures, the Soviet intervention in Afghanistan, the summitry of Ronald Reagan and Mikhail Gorbachev, and the collapse of the communist regimes of Eastern Europe and the Soviet Union.

That said, the volume is laden with the pronouncements of a scholar who has been long steeped in his subject. If it does not work well as a new basic history, it *is* of interest as a set of challenging reflections on a conflict that was unprecedented in the danger it posed and startling in its unexpected and peaceful conclusion. If the book were assigned not as a basic text but as a concluding reading in a seminar on the Cold War, it might serve well. It would serve even better with two additions that are standard for such brief overviews—a timeline and a bibliographical essay.

FRED I. GREENSTEIN
Princeton University

Darfur: The Ambiguous Genocide *by Gerard Prunier. Ithaca, NY, Cornell University Press, 2005. 240 pp. $24.00.*

To be properly understood, Gerard Prunier argues, the Darfur crisis needs to be situated within the broader framework of colonial and postcolonial Sudanese politics and, to a lesser extent, regional geopolitics, including the Chado-Libyan conflict. As an expert on East Africa, the author is very qualified to undertake such a task. He strives painstakingly to disentangle the interplay of power between different local, national, and regional players to show how their ambitions, strategies, and actions intersect to shape the dynamics of Sudanese politics, including the Darfur crisis.

The Sudan is one the most conflict-ridden countries of the world. Aside from the Darfur crisis, the Sudanese civil war, with a death toll of two million people and with four million people displaced between 1972 and 2002, is the worst crisis that postcolonial Africa has experienced.

About the size of the state of California, Darfur, which existed for several centuries as an independent country before being annexed to the Sudan in 1916 (p. x), represents one-fifth of the Sudanese landmass. The origins of the crisis are well known: in February 2003, two rebel groups, the Justice and Equality Movement and the Sudan People's Liberation Army (SPLA), took up arms jointly against the Government of Sudan (GoS) in order to be part of the power-sharing deal being crafted between the GoS and the Sudan People's Liberation Movement/SPLA (SPLM/SPLA) of John Garang. Darfur, it must be recalled, had been loyal to the central government for a long time, despite decades of

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economic and political marginalization. Ironically, a significant proportion of the Sudanese military is from Darfur. Therefore, the GoS opted to outsource the quelling of the rebellion to the Arab militia known as Janjaweed, which seized the opportunity to abduct, rape, and loot on a massive scale in Darfur. All this resulted in a very heavy death toll, and instability. Different sources provide different figures mentioned by the author (pp. 150–152), but there is little doubt that the death toll runs into the thousands, the number of displaced in the hundreds of thousands, and the number of people affected is more than a million.

Prunier outlines four interpretations of the Darfur crisis (p. 152). In the first, the crisis is seen as an explosion of tribal conflicts exacerbated by drought. The second interpretation, favored by some Western governments, sees it as a counterinsurgency campaign gone awry because of the GoS's use of inappropriate means to quell the rebellion. Closely related are the third (ethnic cleansing) and fourth (genocide) explanations, which portray the Darfur crisis as an attempt by the GoS to displace or eliminate entire "African" tribes and replace them with "Arab" tribes that are more supportive of an "Arab" central government.

Prunier's book is unique in offering a comprehensive analysis of the historical, internal, and external factors that have led to the current crisis. He presents a sophisticated analysis of the Sudanese conflict in general and breaks down the stereotypes that present it as a conflict pitting northern Arab Muslims against southern African Christians.

One major criticism is that the material could have been better organized. The author does not state his argument and refute the counterarguments until the very last pages of the book. Even then, Prunier is not explicit enough, and the reader has to go back to earlier chapters to figure out the causal logic of his argument, which is that the GoS perceived the Darfur rebellion as a greater threat to "Arab" power than the SPLM/SPLA rebellion, and that the deployment of massive violence in Darfur is aimed at forcing all "African" Muslims into subservience. But one must say in the author's favor that the lack of any current rigorous scholarship on contemporary Darfur and the hope that such a timely book would influence policy debates on the Darfur crisis justify the laudable effort by the author and publisher to make a comprehensive text on the subject widely available.

OUSMANE KANE
Columbia University

Rising to the Challenge: China's Grand Strategy and International Security *by Avery Goldstein. Stanford, CA, Stanford University Press, 2005. 274 pp. Cloth, $55.00; paper, $22.95.*

Does China's rise threaten the security of the international system? In this important contribution to the "rise of China" literature, Avery Goldstein argues that the People's Republic of China (PRC) is following a fairly conser-

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vative, cautious foreign policy that is unlikely to present a significant threat to international security over the near-to-medium term, and he does so by elucidating the grand strategy guiding Beijing's foreign policy during this period of transition. The general thrust of this grand strategy is "to engineer China's rise to great power status within the constraints of a unipolar international system that the United States dominates" (p. 12), enabling the PRC to pursue its economic and military modernization goals while minimizing the risk that other countries, particularly the United States, will see this modernization as an unacceptably dangerous threat to the international community that must be countered or even halted.

Goldstein does an excellent job of detailing the emergence of this Chinese grand strategy during the mid-1990s. As he notes (p. 17), there is no document that lays out this strategy, but a consensus emerged among Chinese foreign policy elites during 1996 on the content of this strategy. This overarching foreign policy guide is based on goals for economic modernization and achieving great-power status that developed in the 1980s, tempered by the emergence of a durable U.S.-led unipolarity with the end of the Cold War. What is critical, Goldstein argues, is that Chinese analysts and leaders became very conscious of the constraints under which they could attempt the PRC's rise to great-power status. He details specific responses by Asian neighbors during the early and mid-1990s that brought home to Beijing the importance of not provoking other countries to perceive a "China threat" and seek counterbalancing alliances with the United States (the primary source of Chinese security angst). Of particular importance was the Taiwan crisis of 1995–1996; as a result of this event, Goldstein argues persuasively, consensus emerged among Chinese foreign policy elites over the new grand strategy. The implementation of this strategy has focused on China's efforts to reassure other countries of its peaceful and responsible intentions through a new embrace of international activism and multilateral cooperation, as well as the creation of "strategic partnerships" with other major countries and regional organizations. These partnerships will enhance the value of good relations with China while simultaneously warning of the costs of not taking Chinese interests into account on issues it deems vital.

Although Goldstein does an admirable job of presenting China's grand strategy and demonstrating its likely durability, one wonders how he believes the strategy is translated into policies, either toward specific regions and countries (such as China's policy toward East Asia), or on specific issues (for example, the PRC's emerging energy diplomacy). The operation of the grand strategy is discussed to some extent as he examines the creation of the strategic partnerships and the crises that have tested the strategy, but the focus is more on the survival of the strategy than on how it drives Chinese foreign policy. One also wishes he had bolstered the economic portion of his analysis with more supporting data (on trade and foreign investment, for example), particularly because he emphasizes the importance of economic interdependence in the strategic partnerships as well as more generally for the grand strategy.

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Nevertheless, Goldstein has provided a very important contribution to the "rise of China" literature, and his insights on China's grand strategy are sure to shape the debate over the next several years.

MICHAEL R. CHAMBERS
Indiana State University

Political Parties Matter: Realignment and the Return of Partisan Voting *by Jeffrey M. Stonecash. Boulder, CO, Lynne Rienner Publishers, 2005. 175 pp. Cloth, $49.95; paper, $19.95.*

Jeffrey M. Stonecash offers a comprehensive review of a century of partisan change in U.S. politics. He proposes that the twentieth century was marked by a secular realignment of political party attachment evident in a gradual reordering of north/south, rural/urban, conservative/liberal, and government/individual responsibility positions between the two major American political parties. Stonecash further asserts that the well-documented period of party detachment, which several political scientists have referred to as dealignment, was evidence of an electorate catching up with partisan change, rather than a signal of the decline in the importance of political parties in the United States.

By analyzing regional and population density sources of votes over a century, Stonecash documents the long process by which the Democratic Party became less dependent on Southern rural voters for support while the Republican Party became less dependent on the votes of urban Northeasterners.

The 1960s through the 1980s gave rise to a distinct increase in ticket splitting between presidential and congressional outcomes and a concurrent rise in the percentage of voters who considered themselves to be independent. This gave rise to the well-known hypothesis that parties were becoming less relevant as we entered an era of candidate-centered politics. Stonecash takes on this argument by examining the data on a district-by-district basis. At the district level, rather than the aggregate level, he concludes that the split-ticket voting was evidence that presidential candidates were reflecting change in the parties earlier than were congressional candidates. Hence, individual members of Congress retained voter support even as their constituents lost confidence in the national party with which they were associated. As the Democratic Party became more liberal, socially conservative Southerners continued to vote for Democratic members of Congress, because those members remained conservative, despite the party's movement left. However, those same voters were aware that the party was changing and thus did not support its presidential candidates. Similarly, socially liberal Northerners pulled their support for Republican presidential candidates more rapidly than for Republican members of Congress.

Stonecash's work supports an understanding of dealignment as a phenomenon signaling that old party coalitions are dying and an opportunity for new party coalitions is emerging, a view supported by Paul Allen Beck (*Party*

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Politics in America, 8th ed., New York: Longman, 1997) and other scholars. However, it undermines a view of dealignment as an end to political party relevance in the face of candidate-centered politics. Those who disagree with Stonecash's conclusions may challenge the district-level analysis upon which his arguments depend. Further, his aggregation of results within decades in the sections on party identification and split-ticket voting, despite the use of all congressional election years in other sections, may leave readers wondering if the aggregation masks trends less-supportive of his argument. However, Stonecash raises issues that should engage students of American political parties.

Political Parties Matter: Realignment and the Return of Partisan Voting is valuable for its comprehensive look at American political parties and partisan change through a century of volatile politics. It is clearly written, most of the statistics used are straightforward, and it assumes no deep background in political parties or American politics. Thus, it should be accessible to students and those outside the field of political science.

MARY P. MCGUIRE
State University of New York at Cortland

Deterrence by Diplomacy *by Anne E. Sartori. Princeton, NJ, Princeton University Press, 2005. 176 pp. $32.00.*

Can a state leverage diplomatic reputation at the most serious moments of international politics—militarized disputes—to affect the calculations and decisions of other states? Anne Sartori offers positive answers to this and related questions through the use of formal game-theoretic modeling and empirical testing in an accessible presentation that raises some interesting ideas for those interested in security studies, particularly deterrence theory and crisis management. In a twist on the old maxim, "honesty is the best policy," Sartori has us consider the notion that "honesty pays and thus states should pay attention to it."

The author conceives of deterrence as an act of communication in which honesty and bluffing are both viable options and in which, however, there is a reasonable incentive to bluff when dealing with militarized disputes. Sartori finds that states' penchant for bluffing is quite limited and offers an explanation for this observation: concern for maintaining a reputation for honesty exists, because such a reputation strengthens deterrence. The most significant implication of this finding is that states will actually acquiesce in disputes in order to preserve a reputation for honesty, rather than risk a bluff to maintain a reputation for resolve. Sartori's clearest historical example is the Lyndon Johnson administration's handling of the 1968 Czech crisis, in which it signaled the Soviets that it would not get involved, while simultaneously sending a reinforced message that the United States was committed to the protection of West Berlin. Sartori's notion of honesty challenges post-Munich–based con-

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ceptions of appeasement, which assume that indications of a lack of resolve in one crisis will only encourage challenges in the future and that, thus, states must be very concerned about appearing resolute.

How significant this line of argument will become will depend on a more-nuanced and sophisticated application to deterrence theory. Two related areas can be noted. The author acknowledges the difference between credibility as it relates to will and as it relates to capabilities, but then compresses the two terms together with an almost exclusive focus on resolve. Her first step in formally modeling a challenger focuses on the initial beliefs a challenger holds on whether a defender (deterrer) will fight, without, however, considering the related issue of the beliefs a challenger holds on whether a deterrer *can* fight and how *well* it might fight. This lack of distinction is one of the consequences of drawing on deterrence theory that does not distinguish between nuclear and conventional deterrence. But as the work of Mearsheimer, Shimshoni, Freedman, and myself shows, there are significantly different dynamics associated with challengers who calculate that they can achieve objectives only if war is avoided (nuclear environments) and those who can achieve objectives even if war occurs (conventional) [John Mearsheimer, *Conventional Deterrence*, Ithaca, NY: Cornell University Press, 1983; Jonathan Shimshoni, *Israel and Conventional Deterrence*, Ithaca, NY: Cornell University Press, 1988; Lawrence Freedman, *Deterrence*, Oxford, UK: Polity Press, 2004; Richard Harknett, "The Logic of Conventional Deterrence and the End of the Cold War," *Security Studies* 4 (Autumn 1994): 86–114]. Exploring how honesty and bluff affect these two distinct deterrent environments would be an important follow-on. In a related area for expansion, Sartori writes, "Deterrence theory does not adequately explain how a state can change its adversary's beliefs about capabilities and resolve during the course of a dispute" (p. 9).

But again, the distinct literature on conventional deterrence does explore this learning process and shows how the pursuit of bolstering one's capability credibility can actually undermine deterrence by revealing too much. The development of Sartori's model needs to examine the incentives to adopt either bluffs or honesty in a dynamic model of deterrence communication about capabilities. Thoughts about Iraqi weapons of mass destruction and North Korean bluster come to mind as real-world situations in which we would benefit from a better understanding of how both bluffs and honesty work diplomatically.

RICHARD J. HARKNETT
University of Cincinnati

True Faith and Allegiance: Immigration and American Civic Nationalism *by Noah Pickus. Princeton, NJ, Princeton University Press, 2005. 280 pp. $35.00.*

Assessing controversies surrounding immigration and naturalization, Noah Pickus sheds considerable light onto the often-heated debates. Focusing on

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three periods—the Founding and Progressive Eras, and the late twentieth century—he argues that perceptions of the nature of identity have powerfully shaped positions on the inclusion of newcomers into the American polity. Using a framework similar to that employed by Rogers Smith in *Civic Ideals* (Rogers M. Smith, *Civic Ideals: Conflicting Visions of Citizenship in U.S. History,* New Haven and London: Yale University Press, 1997), Pickus identifies a major tension between those concerned primarily with the preservation of communal bonds and those concerned primarily with respect for the equal rights of all individuals.

In the early years of the Republic, Pickus asserts, advocates of greater inclusion endorsed short waiting periods for naturalization, because they believed that "basic social and educational processes could generate a shared sense of national identity" (p. 16). Their opponents favored "longer waiting periods and more restrictive policies," believing that "only deeply ingrained habits of emotional attachment could support a free government" (p. 15). In the Progressive Era, Pickus argues, activists such as Jane Addams saw assimilation as something that could be built on immigrant traditions, whereas more-conservative Progressives, such as Theodore Roosevelt and Herbert Croly, believed that newcomers had to shed their native culture before they could become Americans.

Since the 1960s, Pickus suggests, the more inclusionary approach has split between those who emphasized universal rights (downplaying the importance of national identity) and those who focused on gaining political representation for ethnic and racial groups. Opposed to both positions, Pickus writes, was the older conservative view that American culture was built on a European heritage, as well as the neoconservative view that argued that all immigrants could—and should—assimilate by embracing the universal principles that defined the American polity.

Pickus's usually deft historical analysis stumbles at times. For instance, in his analysis of the legal definition of whiteness in the early twentieth century, he claims that "a popular understanding of whiteness had become the dominant mode of determining who was eligible for naturalization" (p. 109). But, as Matthew Frye Jacobson, whom Pickus misleadingly quotes, (Matthew Frye Jacobson, *Whiteness of a Different Color: European Immigrants and the Alchemy of Race,* Cambridge, MA: Harvard University Press, 1998) and others have noted, whiteness at that time was defined in inconsistent ways, and the definition was twisted as necessary in order to maintain the advantages of those considered to be white.

Pickus's discussion of allegiance is also undeveloped. Although he briefly notes that "the voluntary associations of civil society [are] important places [in which] to develop the habits of belonging" (p. 163), most of his analysis speaks of "civic nationalism" without considering how national allegiance can be reconciled with the day-to-day connections that people experience on a much narrower level. This failing is most obvious when Pickus criticizes the parochialism of ethnoracial interest groups without realizing that they are

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examples of voluntary associations that can help immigrants connect to the larger society and "develop habits of belonging."

In the final two chapters of the book, Pickus develops an argument for his position, which he labels "moderate civic nationalism." Gaining citizenship should be a significant step requiring meaningful effort, but governments and other private institutions should provide greater assistance to immigrants who want to take that step. Aliens and citizens should both enjoy some rights, but citizens should have more-extensive ones. Pickus believes that this can create a meaningful citizenship that does not unjustly prevent certain groups from naturalizing.

Although Pickus's closing argument will likely convince only those already inclined toward his preferences, his book deserves a wider audience. By carefully exploring the nuances of competing views of naturalization, Pickus can help us all think more effectively about one of the pressing concerns of our time.

ANDREW L. AOKI
Augsburg College

Producing Security: Multinational Corporations, Globalization, and the Changing Calculus of Conflict *by Stephen G. Brooks. Princeton, NJ, Princeton University Press, 2005. 336 pp. $35.00.*

The relationship between heightened economic development and interdependence and decreased levels of interstate conflict has generated myriad theories and conclusions. This book challenges this literature as a whole, while carving out an important place in it. Stephen Brooks's first, critical contention is that the link between economics and conflict today goes beyond interdependence. The "globalization of production"—the rise of multinational corporations whose research, development, investment, and production can simultaneously span the borders of several states—has created a new and underexplored set of consequences for international politics.

Producing Security is an important and timely work, and makes a compelling argument for the importance and economic consequences of the globalization of production. The book is less successful in convincingly connecting the economic consequences of the globalization of production to key international security issues. For example, Brooks rightly points out that globalization of production in the defense industry gives states that participate in that production process an edge in defense technology over nonparticipating states, but also compromises the integrity of their capabilities (because production is spread across several countries) and contributes to an equalization of capabilities among participating states. Although plausible, the case that Brooks attempts to make for a connection between the Soviet Union's lack of participation in the globalization of security and its declining competitiveness in the Cold War arms race is not as well supported by the evidence he marshals. In the end, the analysis "does not indicate that the Soviets' international economic

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isolation had a stronger negative effect on their technological competitiveness than did their command economy" (p. 125). The implication that Soviet autarky caused its demise (p. 128) is even less supported by Brooks's analysis.

The assessment of the relationship between the globalization of production, regional trade agreements (RTAs), and the possible resolution of enduring rivalries is similar. Under certain (although rare) conditions, Brooks argues, states might form RTAs to increase market size and enhance their ability to attract Foreign Direct Investment. An analysis of Mercado Común del Sur (MERCOSUR) is extended to argue that the globalization of production was key to ending the long-standing Argentine–Brazilian rivalry. Again, although it is plausible that increased economic integration contributed to the decline of the rivalry between Argentina and Brazil, Brooks does not establish this as certain, even less so because the book lacks an analysis of other key potential causes of rivalry decline, such as the significant strategic and domestic political changes in the region that preceded MERCOSUR.

The final consequence of the globalization of production addressed in the book speaks to the changing benefits of conquest. Brooks illustrates how the combination of cross-national production and knowledge-based economies greatly reduces the economic benefits of conquering advanced industrial states. This argument might explain the lack of conflict among the twenty advanced, industrial states Brooks identifies (p. 208), but an absence of conquest among these states is probably over-determined. Further, as Brooks acknowledges, the declining economic benefits of conquering advanced industrial democracies cannot account for the global decline in conquest that we see today.

Even if the consequences of the globalization of production are not as long-standing as Brooks claims they will be, they are surely profound. As a careful inquiry into this critical phenomenon, this book deserves a prominent place on the shelf, and should be read alongside more familiar treatments of the liberal peace as both complement and challenge. Although Brooks has been less successful in providing compelling links between the globalization of production and international security consequences, the ambition and thoughtfulness that characterize his work are to be applauded. *Producing Security* merits real praise for attempting to bridge the often all-too-wide gap between international political economy and security studies.

TANISHA M. FAZAL
Columbia University

Institutions and Ethnic Politics in Africa *by Daniel N. Posner. New York, Cambridge University Press, 2005. 360 pp. Cloth, $70.00; paper, $26.99.*

This book provides a significant conceptual advance in the analysis of ethnicity, one that must be considered by social scientists investigating ethnic cleav-

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ages anywhere. Daniel Posner makes two groundbreaking contributions: first, that the activation of a specific dimension of ethnicity is an important and researchable variable; and second, that change in institutional structure often triggers the activation of ethnic dimension. If each individual has many ethnic identities (dimensions), such as group ancestry, language, culture, religion, or territory, plus the smaller identities nested within these factors (for example, clan within ancestral group), then why does one identity rather than another become the basis for political conflict? After Posner, no successful account of ethnic politics may presume a particular cleavage structure without first considering why others also available in that society were not chosen instead.

Political institutions are often the reason. Electoral rules, for example, may privilege one of several ethnic cleavages, say "tribal" rather than language differences in Zambia, or religious rather than caste in India. Typically, the activation of a cleavage seems "obvious," so no one considers why it has occurred, even though an alternative might change an election. Suppose the institutions change, might that cause the dimension of ethnicity to change too? The answer Posner conclusively demonstrates is yes for changes from Zambian competitive to single-party elections. After Posner, no successful account of ethnic politics may presume a particular cleavage structure without first considering whether a specific institution makes it rational to activate it.

Taking advantage of Zambia's shift of electoral institutions from competitive parties to a single-party system and back, Posner demonstrates that at both elite and mass levels "tribal" identities were more effective in campaign discourse and voter choice in single-party elections, whereas language identities succeeded more in multi-party elections. In elections during the single-party regime, candidate success was organized in terms of the dominant "tribe." The difference was so marked that parliamentary candidates running in the *same* constituency who won on the basis of their "tribal" appeal in a single-party election frequently lost a succeeding multi-party election in which they affiliated with a party not associated with the "home" language of that area.

In developing the logic explaining why change in institution causes change in ethnic dimension, Posner focuses on group size. In a given institution, the choice of ethnic dimension depends on which one will bring the voter into a group large enough to form a minimum winning coalition. He creates a valuable diagnostic tool, the notion of an "ethnic identity matrix" (pp. 131–136). Which of two ethnic dimensions necessary for victory will a voter or the party trying to attract her activate? Only a small group of voters will have the luxury of belonging to the largest group on both dimensions, allowing this group to choose between the dimensions. Depending on the group sizes of other voters, who can identify with only one of these dimensions, this small group, the "pivot," can tip the balance by voting for the ethnic dimension that includes them in a minimum winning coalition. The key is the difference in the sizes of groups, and thus in voters, that would result from grouping them according to each ethnic dimension.

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The care Posner takes in building this argument is exemplary. He delves deeply into Zambian colonial and independent history to demonstrate not only the formation of the many "tribal" and few linguistic groups, but also why and how much their group sizes have changed. In demonstrating his argument, he deftly deploys a wide range of social scientific techniques in a fully persuasive account.

NELSON KASFIR
Dartmouth College

The Strange Death of Marxism: The European Left in the New Millennium *by Paul Edward Gottfried. Columbia, University of Missouri Press, 2005. 154 pp. $34.95.*

Marxism is officially dead, and Paul Gottfried wants to warn us about its alleged successor, "post-Marxism." This new "political religion," Gottfried claims, is "post-bourgeois" and technocratic, views "the nuclear family and defined gender roles as the concentrated evil ... to obliterate" (p. 23), welcomes massive waves of immigration from the south, and insists on a "tolerance" that penalizes right-wing hate speech. Finally, in its rise to power, "the post-Marxist Left has blocked democratic protest and the possibility of political self-correction that is not perceived as politically correct" (p. 26).

Post-Marxism originated in the decline of post-war communism, primarily in France and Italy. The book's recurrent problems of scholarship show quickly when Gottfried notes (p. 32) that French intellectual fellow travelers "... like ... Sartre, ... de Beauvoir, ... Althusser, and Claude [*sic*] Merleau-Ponty, eventually became Communists." If Althusser was a communist, Sartre, Beauvoir, and Merleau-Ponty never were. "Claude" Merleau-Ponty is, of course, Maurice (one of many name mistakes, including Bordieu (Bourdieu, p. 2), Bernard (Lionel) Jospin (p. 81), Robert Hué (Hue, p. 3), Jean (-Marie) le Pen (p. 82), Otto Kirchheim(er) (p. 74), Marie-Claire Lavabie (Lavabre, p. 3), and Giddings (Giddens, p. 21). The post-war communists eventually got into trouble, in part fighting off Marxist humanists more in touch with the times, but not before infecting the European left with knee-jerk anti-Fascism, blindness to Stalinist crimes, and a penchant for denouncing American imperialism bundled with third-worldism. Gottfried then moves to the "stirrings" of some "neo-Marxists" who insisted on shifting from materialist to cultural themes. Passing rapidly through Liberation Theology and Italian Gramscianism, he targets the Frankfurt School for its cultural and psychoanalytical "social engineering," whose "militantly anti-bourgeois stance" moved to the New World where, he claims, it tried to build a post-Marxist left "that could rally young professionals pursuing untraditional lifestyles" (p. 78). Returning to the old continent, Gottfried then attacks "cultural Trotskyism," mainly French, for being anti-Fascist and multicultural, and for refusing to allow Hector Berlioz

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to be buried in the Pantheon (mentioned twice in the book). The harshest criticism is reserved for Jürgen Habermas, however, whose appeal for reasonable communication masks soft totalitarian social engineering and who is also overly preoccupied with Fascism. A breathtaking transition then links Habermas to the hard-nosed American colonels and Nuremburg lawyers who tried to de-Nazify Germany after the war.

This is a strange minestrone of intellectual history. The topics included, the grounds for including them, and the order of the argument are remarkably idiosyncratic. Were Gottfried really looking for the most-European post-Marxist attacks on what remains of bourgeois society, he might have considered the varieties of post-modern thought. He has not. Looking for significant post-Marxist political trends might have brought him to social democracy, currently facing dramatic theoretical and practical adjustments obliged by the end of the Cold War, post-industrialism, market liberalization, and globalization. Nary a word. Why were European leftists concerned more about a renaissance of Fascism than about the crimes of Stalin? Often, they were partly blind to history. It is more significant, however, that the Fascists did much of their massive murdering in Germany, Italy, France, and elsewhere in Western Europe, whereas Stalinist crimes were relatively far away. There were, thus, good grounds for worrying about a renaissance of extreme-right hate politics. *The Strange Death of Marxism* is a curious piece of work, answering questions that few have asked. Then again, this reviewer may lack the antennae needed to perceive the threat that Habermasian post-Marxists pose.

GEORGE ROSS
Brandeis University

Losing Iraq: Inside the Postwar Reconstruction Fiasco *by David L. Phillips. New York, Basic Books, 2005. 292 pp. $25.00.*

The book's title says a great deal, both about its substance and its point of view. Although David Phillips, a former State Department official and consultant to the ill-fated Future of Iraq Project, is intent on detailing what the George W. Bush administration did wrong in Iraq, the book's major contribution is elsewhere. Without excessive detail and written with an understandable combination of passion and frustration, its value lies in its first-person narrative of the Future of Iraq Project, the interagency initiative set up in April 2002 to "meld the talents, experience, and expertise of Iraqis in the service of a new Iraq" (p. 37) and its suggestion that Iraq might look different today had the Bush administration heeded the advice of this body.

With more than a decade of experience working on Iraq and traveling to the region, Phillips was asked to lead the Project's Democratic Principles Working Group. Although led by the State Department, the Project was a unique interagency body that included seventeen federal agencies and over

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200 Iraqis from across the political spectrum and including every ethnic group and major political party. The goal of the group was modest but pointed: to build a sense of solidarity and common purpose between Iraqis (p. 38). Given Iraq's current state, this seems like a grand, if not unattainable dream. The Project did not resolve any of the issues that divided Iraqis, but it certainly seemed to have a handle on what the United States could expect once Saddam Hussein was gone.

Ultimately, the Project's recommendations and its participants were marginalized, and the President established the Office of Reconstruction and Humanitarian Assistance (ORHA) within the Defense Department. In what could be a far longer section, Phillips explains the seeds of the current fiasco: ORHA's reliance on private contractors, the absence of State Department experts, and the few Arabists involved in the Pentagon's "rolling transition" plan. As alarming and disturbing as the events in Iraq proved to be, Phillips is not surprised; he acknowledges that after an October 2002 meeting, he "feared the worst" for a post-Hussein Iraq, because of the divisions within the Iraqi opposition and the glaring problems with Ahmad Chalibi, the man the Bush administration naively believed could transform Iraq into a liberal democracy (p. 87). At the same time, the author remains astonished at the Bush administration claim that the United States "didn't really have enough time to plan." It had, but neo-conservatives with a different agenda just ignored the plans that had been developed.

While the first half of the book is unique and compelling, the second half hardly differs from the numerous other books that are currently available. This is because by the time of the invasion, Phillips's hands-on experience had ended, and the insider became just another—although far more credible—critic of the Bush administration.

Losing Iraq concludes with a short, even awkward chapter on lessons in nation building. Although not unlike other, far more sophisticated lists developed by those who have closely and comparatively studied nation building, this final chapter is poignant because it largely points out the obvious. Perhaps Phillips consciously chose such an ending because he knows first-hand that expertise, substance, and even facts are regularly ignored by the current administration.

PATRICE C. MCMAHON
University of Nebraska–Lincoln

Rethinking the World: Great Power Strategies and International Order
by Jeffrey W. Legro. Ithaca, NY, Cornell University Press, 2005. 253 pp. $39.95.

Foreign policy ideas fundamentally shape international order. In the wake of World War II, the United States espoused an internationalism discordant with its isolationist tradition, and Germany, destroyed and defeated, emerged as a

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pacific state. Under Mikhail Gorbachev, the Soviet Union adopted a "new thinking" that ultimately transformed the Cold War, and today, scholars debate whether the United States is undergoing its own foreign policy revolution, eschewing liberal internationalism for a unilateral, aggressive foreign policy.

Scholars frequently attribute such ideational shifts to exogenous shocks—material changes, most notably war, that disprove old beliefs and create new foundations of international politics. In contrast, Jeffrey Legro argues that world orders are made—and remade—by shifts in foreign policy ideas, which provide states with an "ideational lens" with which to interpret international politics. According to Legro, collective ideas "fundamentally shape their own continuity or transformation (1) by setting the terms and conditions of when change is appropriate and (2) constituting the most likely option(s) for the new orthodoxy" (p. 13). He tests this argument through two central case studies, examining why World War I led to foreign policy continuity—isolationism in the United States and revisionism in Germany—whereas World War II sparked dramatic change in both states. He concludes that only in the face of perceived failure will states adopt new foreign policy ideas as guides to grand strategy.

Legro persuasively argues that collective ideas are necessary factors in international change. However, it is unclear what exactly is being transformed in Legro's account: when actors "rethink the world," do they change foreign policy *ideas* or foreign policy itself? Legro's dependent variable is often vague: he alternately refers to "foreign policy ideas," foreign policy "patterns" (p. 16), and "operational" ideas that seem to encompass both ideas and practice. (pp. 49, 57).

This conflation of ideas and behavior raises theoretical and empirical questions. On the one hand, if the aim is to explain ideational change, then the approach is overly functionalist. For Legro, ideas persist or collapse depending on whether they succeed or fail in meeting foreign policy goals. Although this is seemingly intuitive, most theorists recognize functional analysis as deeply problematic, relying on circular reasoning that is largely unfalsifiable: ideas persist when they are successful, and successful when they persist. Legro attempts to elude this functionalist circle by introducing social expectations into the equation: it is *perceptions* of functionality, as well as the availability of alternatives, that lead to ideational change (pp. 30–38). However, far from providing rigorous causal mechanisms, Legro offers a truism. Arguing that ideas are discredited when they are perceived as discredited is a definition, not an explanation, of change. A more convincing theory must provide causal mechanisms for *how* it is that actors come to abandon ideas and formulate alternatives.

If ideas and policies are distinguished, moreover, this suggests that shifts in ideas may not lead to concurrent changes in grand strategy. Empirically, this offers a plausible reinterpretation of Legro's cases, particularly his study of American internationalism. Many theorists have argued that the failure of Versailles did not represent the triumph of isolationism. After all, the public largely supported Woodrow Wilson's fundamental departure from isolationist

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politics, and save for a few "strong reservationists," the Senate debate largely concerned the specific form of post-war American intervention in the post-World War I world. In essence, Americans may have rejected Versailles, but not the ideas of a "crusading state."

If this is the case, Legro should explain not the continuity of ideas, but why shifts in ideas failed to affect foreign policy. Ultimately the answer may lie in a process Legro dismisses as the "warp and woof" of politics (p. 38). To open the analysis of politics would not be to ignore ideas, but rather to provide the critical causal link between ideas and grand strategies, allowing for a far richer account of ideational change.

STACIE E. GODDARD
Wellesley College

How America Goes to War *by Frank E. Vandiver. Westport, CT, Praeger Publishers, 2005. 176 pp. $39.95.*

The authority to wage war is one of the most hotly debated powers in the U.S. Constitution. Although the Constitution expressly grants Congress the power to declare war, it also identifies the president as the Commander in Chief of the armed forces, and the latter provision has served to justify executive decisions to send troops abroad without a congressional declaration of war. In the post-September 11 world, in which the "war on terror" likely will continue for decades, Frank E. Vandiver's succinct analysis of how the United States decides to go to war is timely and thought-provoking.

This study, written by a noted scholar of American warfare and published posthumously, presents a comprehensive overview of U.S. wars from the eighteenth century to the present. Vandiver examines domestic insurrections—the Whiskey Rebellion and the Civil War; declared wars—the War of 1812, the Mexican-American War, the Spanish-American War, World War I, and World War II; and the major post-World War II conflicts—the Cold War, the Korean War, the Vietnam War, the first Gulf War, and the war on terror. In each case, Vandiver focuses on why the United States engaged in armed conflict, how the president chose to consult with Congress, and what lessons the case presents for U.S. foreign policy.

Perhaps the most significant contribution this book makes is to summarize major conflicts in American history clearly and concisely. For example, Vandiver describes the Cold War as "a congeries of struggles—economic, emotional, diplomatic, military, psychological, sometimes farcical—between democracy and dictatorship" (p. 99). In seven short pages, he skillfully explains how American interests changed during those struggles, and he both praises and criticizes U.S. foreign policy choices in bringing the Cold War to a peaceful conclusion. In between each case, Vandiver analyzes American policy responses after the war and the legacy of each conflict.

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The breadth of this short survey is impressive, but it leaves us wanting a more thorough evaluation of decision making in each case. Vandiver makes his argument clear at the outset, stating that "Congress has generally abandoned its constitutional war declaration power as increasingly belligerent presidents have expanded their role as commanders-in-chief" (p. xi). But he does not systematically develop this argument in each chapter. From an institutional perspective, a deeper look at executive actions, congressional reactions, and public opinion in each case would be helpful for evaluating how the policymaking process has evolved. Although such analysis would sacrifice brevity, it would make a greater scholarly contribution to understanding how the United States decides to go to war.

The most disappointing chapter in this respect is the final one about the war on terror. Employing the biblical metaphor of "The Fifth Horseman" to describe terrorism, Vandiver begins with a fascinating synopsis of terrorist activities throughout world history. But his critique of the 2003 war with Iraq seems to be written primarily for an audience that already shares this view. A description of the war as "a nation-building guerrilla foray with no discernible victory point" (p. 136) raises many important points for analysis, but this study does not engage those debates. The concluding admonition that perhaps "things have drifted nearly beyond redemption .... Is America finished?" (p. 144) seems premature. The book would be better served by a more thorough analysis of the case that leads the author to this ominous conclusion.

With a short bibliography and few endnotes, this text will be of most interest to general readers in American foreign policy. Nevertheless, scholars also will benefit from considering the fundamental questions that this crisply written study poses about American decisions to go to war.

MEENA BOSE
United States Military Academy

Selling Intervention and War: The Presidency, the Media, and the American Public *by Jon Western. Baltimore, MD, Johns Hopkins University Press, 2005. 320 pp. Cloth, $40.00; paper, $18.95.*

In a timely and well-written volume, Jon Western examines the competition among foreign policy elites in the executive branch and in Congress for mass support for military intervention. Using contemporary conflicts, including the current one in Iraq, the decision not to intervene in French Indochina in 1954, the choice to go into Lebanon in 1958, and the more recent military actions in Grenada, Somalia, Bosnia, and Iraq, Western illustrates how presidents and their supporters orchestrate campaigns to generate support for military action. Western places foreign policy elites into eight categories: hardliners, selective engagers, reluctant warriors, neo-isolationists, liberals, pacifists, anti-

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imperialists, and humanitarianists. He argues that elites within these categories carefully monitor public attitudes and factor the public's opinion into their deliberations about military intervention.

Ultimately, the success or failure of executive efforts hinges on a president's information advantages, the degree of cohesion within his administration, and the length of the crisis. The public's predisposition regarding a conflict is also important. When the public has not believed that a military threat was credible or that victory was probable, foreign policy elites, presidents, and their advisors have had to retreat from intervention.

Any theory of American military intervention would have to emphasize the American presidency as the office of the Commander in Chief. To Western, however, it is the office's propaganda advantage, not it's formal constitutional powers, that play a major role in shaping intervention. Advocacy groups with direct ties to the president can capitalize on the office's inherent institutional advantages to organize and mobilize public and political support, although opposition groups, with fewer institutional advantages, can also mobilize public support. The competition for public support is filtered through the media, which can play its own independent role. Western believes that the media is usually deferential to presidents, at least initially, because presidents possess a monopoly on conflict-related information. The media may become critical as more information about a conflict emerges.

Perhaps because I was reading the book in the context of the unfolding debate concerning weapons of mass destruction, the Valerie Plame incident, and the evident efforts of the current administration to discredit critics of the Iraq invasion, I found the book's central point very easy to accept: much energy in intervention is devoted to managing public perceptions. In the era of the "public opinion presidency," Western's thesis should give us all cause for concern. When our enemies are an adjective rather than a noun, and when preemptive interventions are sold on the basis of classified intelligence, public perceptions of threats are very susceptible to manipulation. Although the potential for abuse is there, we may take some solace in the limits to manipulation. Western argues that presidents who aggressively oversell the use of force will find it difficult to sustain support if the intervention does not go well, particularly if the arguments made for the war are revealed to have been exaggerated. When it comes to public opinion, presidents have significant advantages, but these advantages are not without limits.

This book is carefully organized and thoughtfully written, and its ideas should be accessible to a wide readership. I would recommend the book to specialists, including students of the presidency, foreign policy, and conflict. Given the timeliness of the topic, it should also be worthwhile reading for laypersons interested in American politics and foreign policy more generally.

PAUL BRACE
Rice University

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The CIA and Congress: The Untold Story from Truman to Kennedy *by David M. Barrett. Lawrence, University Press of Kansas, 2005. 542 pp. $39.95.*

An organization in the business of clandestine intelligence is an interesting case for the study of congressional oversight. When that organization is the Central Intelligence Agency (CIA) and the calendar year is after 2001, the interest, as well as importance, is compounded. David M. Barrett has provided a thorough account of such a case, that of Congress–CIA relations, from the agency's inception to the Bay of Pigs operation. His book is a fertile testing ground for theories of congressional oversight, and a comprehensive review of episodes major and minor that shaped the priorities of the U.S. intelligence bureaucracy.

Secret missions do not abound in opportunities for constituents to participate in, or for courts to review, the bureaucracy selecting or executing them. Therefore, a principal channel of congressional oversight—"fire alarm" oversight, or response to problems noted (in part) by constituents—is partially blocked in the case of an intelligence agency, in comparison to (say) regulatory or social policy agencies. This intensifies the legislature's problem of ensuring that delegated authority is used in ways that it values, which is the major tension animating the relationship that Barrett reviews.

In fact, at one of the relatively few points where Barrett injects his own overt analysis into the account (p. 460), he argues that fire alarm oversight is a good overall characterization of the relationship. When problems in the CIA's missions or organization were publicized (surprise over Soviet development of atomic weapons, for example), Congress scrutinized it extensively in reaction. However, it is also clear from Barrett's depiction that a number of pivotal legislators actively kept up with the agency. Indeed, this ongoing "police patrol" oversight arguably had a greater effect on the accountability of the CIA than the reactive fire alarm oversight. In cases of high-profile failures, Congress's reactive oversight focused on the gap between actual performance and the priorities common to both the CIA and Congress. It was instead the ongoing connections between the CIA and Congress, special oversight committees, and budget committees that seem to have had an effect on CIA priorities in the first place. This is what the model of police patrol and fire alarm oversight would suggest: when fire alarms became less useful, police patrols became more important.

In addition to oversight per se, another channel of agency accountability is the institutional structure under which it operates. *The CIA and Congress* begins with the CIA as a functioning organization; its design and structure receive light coverage. This is an entirely sensible choice, and even with the circumscribed fifteen-year time frame, the book already has satisfying heft. Nevertheless, the overarching goal of congressional oversight is not review per se, but rather assurance that delegated authority will be used as Congress

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wishes. The assessment of how close Congress gets to achieving that overarching goal is limited, when studied in isolation from the institutional designs that structure the choices of the agency.

Barrett's account of the early Congress–CIA relationship is relatively light on explicit theoretical analysis. His scholarly judgment is more subtle and implicit, operating to determine the episodes recounted and how to spread around the relative weight on each. He makes his principal point—that Congress did act to oversee the CIA during this period, and did not simply wind the CIA up and let it run its course—by reconstructing in rich detail, and roughly chronological order, a mass of discrete episodes of Congress–CIA interaction during this period, based on exhaustive archival work.

For these reasons, *The CIA and Congress* offers many chances to generate and explore ideas about how oversight works. It succeeds in demonstrating how oversight shaped the trajectory of an agency on the receiving end of some of the tensest scrutiny in all of the federal bureaucracy.

SEAN GAILMARD
Northwestern University

Elephant's Edge: The Republicans as a Ruling Party *by Andrew J. Taylor. Westport, CT, Praeger Publishers, 2005. 336 pp. $44.95.*

Elephant's Edge: The Republicans as a Ruling Party is a very good exploration of the current Republican hegemony in American politics, from the White House to Congress to the federal courts to state houses across the country. Andrew Taylor argues that although the Republicans have succeeded in capturing key institutions and enacting their policy program, they have failed to garner the allegiance of an actual majority of voters. He wonders how long the Republicans, without an actual majority, can maintain their dominance in American politics.

Taylor deconstructs the current Republican advantage quite precisely and thoroughly. He attributes Republican dominance to the geographic apportionment of Congress and the electoral college; cohesive and ambitious party leadership in the House (the Newt Gingrich–Tom DeLay connection); excellent party organization and strategy; dominance on foreign policy issues; and the correct placement on the ideological spectrum when it comes to key issues such as abortion, same-sex marriage, and religion. This book is especially good in the sense that Taylor seamlessly brings together academic scholarship and journalistic accounts (and opinions) to draw a crisply constructed diagram of how the Republicans have succeeded so well in a relatively short period of time.

There are several chapters that stand out. Among them, Taylor's chapter aptly entitled "Elephants in the House" chronicles the rise of the Gingrich rebellion within the more moderate Republican wing of the House during the

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1980s, through his electoral triumph in November 1994, to the fall of Gingrich and the rise and fall of Tom DeLay. The chapter packs a lot of information in a relatively small space but tells the story in a clear and perceptive way, with the added bonus of the perspective of time. Taylor rightly points out that even though the individual leaders of the Republican Party in the House have come and gone over the past decade, they have adapted to use the tools at their disposal (policy change and pork barrel spending, for example) and other tools not quite at their disposal (redistricting) to keep their hold on the majority.

Another excellent chapter in the book is Taylor's chapter entitled "Winning Hearts and Minds," which focuses on the clever use of Republican-leaning media machines, as well as think tanks, to give credibility and publicly expressed support to Republican policy ideas. He reaffirms the ways in which Republicans mirrored the success of "liberal" media and left-center-leaning think tanks in giving legitimacy to Democratic Party ideas.

Of course, no book is without some minor flaws. Taylor seems to shy away a bit from his very strong argument in favor of Republican hegemony in his conclusion, where he suggests that the Democrats could find ways to adapt their message to win more elections at every level, and suggests that Republicans may "overreach," as is the tendency of any party that holds a strong majority for a long period of time. But these observations clash a bit with the structural arguments in the book that point to apportionment, redistricting, and greater ideological cohesion among Republicans as important elements in their success. Taylor leaves us with an incomplete expression of his thoughts on whether institutional structures, or message politics, or even the fickle voter, is the most important factor in American politics.

Whatever one's political stripe, s/he will find this book to be highly informative and engaging, most especially those of us who are very keen to see whether the electoral landscape changes in both the 2006 and 2008 elections.

WENDY J. SCHILLER
Brown University

The Making of the Presidential Candidates 2004 *by William G. Mayer, ed. Lanham, MD, Rowman & Littlefield Publishers, 2004. 384 pp. Cloth, $85.00; paper, $29.95.*

Examining the American presidential nomination process, with too few exceptions, has been left largely to the news media, resulting in a popular understanding based too heavily upon anecdotes from particular elections and too little upon a systematic assessment of the process. Although journalists' insights are valuable, they fall short of a comprehensive statement of the regularities of the nomination process. In *The Making of the Presidential Candidates 2004*, the third book in a quadrennial series, William G. Mayer provides a

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more coherent picture of the American presidential nomination process. As with any edited volume, the efforts in each chapter vary in their success, but collectively, the book highlights important tendencies from previous nomination campaigns to give readers a better understanding of the 2004 nomination campaign.

One of the book's indisputable strengths is how it connects detailed information to explanation. In chapter 3, William G. Mayer provides copious polling data from recent nomination races to illustrate cogently how the preprimary period influences the selection of the nominee. Similarly, Anthony Corrado and Heitor Gouvêa give a thorough overview of the laws regulating fund-raising and how these laws affect candidates' strategies. Finally, Andrew E. Smith provides a concise description of the polling process, and its attendant hazards, to enlighten readers as to why the New Hampshire primary is often the source of such great surprises. All of these chapters compactly provide valuable information for understanding the nomination process that journalistic accounts often miss, or at least underemphasize, and they also provide a ready and extensive reference resource.

There are also useful historical overviews that help readers understand where the current nomination campaign fits into previous ones. In this regard, Kathryn Dunn Tenpas's chapter on the White House's role in incumbents' reelection campaigns allows readers to see how the current administration's merging of policy and politics is part of a long tradition of incumbents, going back to Nixon, blurring the lines between governing and campaigning. Taylor E. Dark's chapter on the involvement of labor unions in the Democratic Party's nomination process shows how organized labor has adapted its role to the changing campaign environment. This chapter anticipates how organized labor's efforts to influence the selection of the nominee led to the 2004 split in labor support, where at least three of the candidates received some union support. Finally, William G. Mayer and Andrew E. Busch's chapter on front-loading follows the evolution of the post-1968 nomination process and explains its consequences for candidate behavior in 2004.

Including practitioners' insights is a good idea, but unfortunately, the weakest two chapters of the book are those in which practitioners discuss the role of the Internet and journalists, respectively, in the nomination process. Michael Cornfield and Jonah Seiger describe the characteristics of an effective Web campaign. Their advice in this chapter will be useful for professionals evaluating how effectively the candidates, particularly Howard Dean, used the Web in 2004, but their recommendations will not allow most readers to answer broader questions such as, "Did Howard Dean falter in Iowa because he used the Internet ineffectively to organize support or because the Internet *cannot* be used effectively to organize support?" Similarly, David M. Schribman is a terrific political reporter, but his perspective on political journalists tells us more about how reporters see themselves than about how their coverage of the nomination campaign influences our choice of leaders.

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These matters aside, *The Making of the Presidential Candidates 2004* provides a valuable overview of the current state of the American nomination process.

PHILIP PAOLINO
University of North Texas

Saving the Reagan Presidency: Trust is the Coin of the Realm *by David M. Abshire. College Station, Texas A & M University Press, 2005. 272 pp. $29.95.*

In times of crisis, every president needs help, yet most don't know where to find it. Ambassador David Abshire's new book details the events surrounding the aftermath of the disclosure that the administration of Ronald Reagan had traded arms for hostages and had channeled these funds to assist the Contras in Nicaragua, and chronicles his central role in reviving the Reagan presidency.

The primary strength of this work is in providing precise clarity and insight into a White House reeling from scandal. So many books written from an insider's perspective are too broad and unfocused to be of much academic or practical value. *Saving the Reagan Presidency* discusses a finite period of inquiry (Abshire's ninety days in the White House) with telling detail, and, perhaps as important, the book addresses failures in presidential leadership with a strong analytical focus. Given this tapered approach, we gain a richer understanding of personalities, timing, policy background, and political actions without drifting into a watered-down historical narrative.

Another strength of this book that it puts second-term presidencies into theoretical and empirical focus, a spotlight that has been lacking in political science. Most presidential behavioral theories assume a White House geared toward reelection in the first term and toward the vague notion of "history" in the second term. How this executive attention to "history" is identified and managed is important in evaluating the modern presidency, especially because our last few presidents have had more second terms than did their predecessors.

Given the subject matter and the time period studied, the book presents compelling historical value that contributes to the practical value of the book. Ambassador Abshire is honest about his own political and personal impressions, both at the time and contemporarily, the actions of others and, uniquely, the President whom he admires. He concludes that President Reagan was unable to control his White House and presented a "mystifying unevenness" (p. 199) but that his intention in the Iran-Contra debacle was never devious and never aimed at deceiving the American public.

The icing on the cake of this fine work is the foreword written by Richard Neustadt shortly before his death. This seems appropriate, inasmuch as Ambassador Abshire's treatise is reminiscent of Neustadt's sage advice to presi-

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dents in past years. Neustadt argues that each president, especially those "habitually rising 'above' details" (p. ix), needs a disinterested and politically astute insider (played by Nancy Reagan for her husband during Iran-Contra) to synthesize information from multiple sources and to guide the president's thinking. This early observation further allows for a sharper read of the main text and provides an important analytical vantage point.

Ambassador Abshire's tenure as the White House's "Mr. Clean" is briefly expanded in a final chapter to include his impressions of other second-term presidential scandals: Watergate and the Bill Clinton impeachment. Although the personalities of the presidents and the circumstances were quite different, Abshire offers contemporary insight on how the White Houses of Richard Nixon and Bill Clinton might have managed the scandals they faced (each largely of their own making). Fundamentally, the intention to conceal critical information from the public and Congress is argued to be the common factor in presidential scandal and one that Abshire argues can be avoided.

Ambassador Abshire's book could (and likely should) be read as a "how to" in presidential management rather than a theoretical or academic inquiry. All second-term presidents should heed his battle-tested advice, and all those interested in presidential resilience should read this book.

BRANDON ROTTINGHAUS
University of Idaho

The Talk of the Party: Political Labels, Symbolic Capital and American Life *by Sharon E. Jarvis. Lanham, MD, Rowman & Littlefield Publishers, 2005. 304 pp. Cloth, $80.00; paper, $27.95.*

In an era of personalistic and media-oriented politics, it is impressive that political parties remain important organizers of government, campaigns, and communications. In this book, Sharon Jarvis examines the language of partisanship and sees how it has affected more than fifty years of American public life, from 1948 to 2004. Using an in-depth content analysis of six words (*Republican*, *Democrat*, *conservative*, *liberal*, *party*, and *independent*) that appear in presidential speeches, news coverage of those speeches, congressional debates, and civics textbooks drawn from the Campaign Mapping Project directed by Roderick Hart and Kathleen Hall Jamieson, Jarvis investigates how the word *liberal* became a dirty word, how Republicans used consistency to build a brand name around their party label, and why slogans such as "compassionate conservative" helped George W. Bush win the presidency.

Jarvis argues that political labels are important because of their symbolic imagery and their ability to encapsulate key themes in public life. Naming something, in her view, frames political discussions. It is not just a rhetorical act, but a process that structures civic dialogue. Labels become shorthand communications devices for leaders, reporters, and voters trying to make sense of the complexity of contemporary life. From the standpoint

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of political parties, names and labels are part of the branding process in mass communications.

For example, Jarvis looks at the history of the term *liberal* and shows how the word has changed meaning over five decades. In 1948, Democratic presidential candidate Harry Truman bragged about being a liberal. Within two to three decades, though, Republicans were criticizing the word and the philosophy that stood behind it, and Democrats were back-pedaling in their use of and support for that terminology. Rather than meaning open-minded and tolerant of opposing beliefs, liberalism was redefined as being soft on crime, national defense, and patriotism.

In looking historically, she distinguishes four eras of party talk. The period from 1948 to 1960 was a monolithic time, when elites emphasized party labels in clear and unambiguous terms and used these appeals to unite supporters. From 1961 to 1979 was a period of liminal time, in which the political environment was undergoing change and elites were struggling with how to redefine their appeals for a mass audience. From 1980 to 1999, party labels were fragmented, as voters turned against the political establishment and delegitimized previous constructions of party. This challenged the ability of leaders to hold their parties together at a time in which these organizations were under great pressure. By 2000, though, parties were in a "moment of resurgence" (pp. 94, 95), as partisanship was revived and voters were polarized over the talk of the parties. The problem for leaders during this period is uniting voters divided by ideology and background.

Interestingly, Jarvis finds that even during periods of party weakness, elites never stopped referring to parties. On the campaign trail and in the halls of government, leaders drew on party names to mobilize supporters and attack the opposition. She concludes that political parties "command attention, even when they are not universally loved" (p. 2).

For scholars interested in parties, campaigns, and political communications, this is an important book. Jarvis presents thoughtful ideas on the history and evolution of party labels and on how elites use these names in symbolic ways. She makes use of persuasive data on speeches and news coverage, and on how they have changed over the last five decades. The book is a readable and up-to-date account of how parties structure civic life in the United States.

DARRELL M. WEST
Brown University

Prophetic Politics: Christian Social Movements and American Democracy *by David S. Gutterman. Ithaca, NY, Cornell University Press, 2005. 222 pp. $34.95.*

The biblical story of the Exodus figures prominently in the self-concept of many religious social movements. David S. Gutterman begins his book by examining the role of the Exodus narrative in American political life. He finds

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evidence of its importance from the seventeenth-century Puritans to Abraham Lincoln to the modern Civil Rights movement. Gutterman suggests that responses to the Exodus story provide a way to evaluate religious social movements. His goal is primarily normative, to determine whether these movements are good for democracy. Using his own evaluative framework, based primarily on the work of Hannah Arendt, Gutterman offers an outline for analyzing religious social movements based on whether they embrace the Exodus story as one about sojourning or about a chosen people. A focus on sojourning gives movement adherents the ability to focus on public issues, which supports democracy, whereas a chosen-people movement focuses adherents' attention on themselves in ways that are detrimental to democracy. This approach is particularly interesting in that it allows him to compare a variety of movements with different goals and varying historical contexts.

Utilizing a narrative and rhetorical analysis framework, Gutterman examines the writings and speeches of leaders of four prominent Christian social movements of the twentieth century: Billy Sunday, Martin Luther King, Jr., Promise Keepers, and Call to Renewal. He finds that Martin Luther King, Jr. and Call to Renewal are "sojourner" movements, espousing a theological and social ethic that encourages adherents to put themselves in others' shoes, thus building democratic values such as compromise and a focus on the common good. Billy Sunday and Promise Keepers, particularly because of their focus on personal rather than public transformation, are "chosen-people" movements. These do not benefit democracy because they move the locus of change and power, and thereby of decision making, from the community to the individual level. In analyzing the rhetoric of these movements, Gutterman seeks to understand the ways in which the Exodus story is used to reinforce these public or personal transformations.

Scholars of a variety of disciplines that examine the relationship between religion and politics will find much that is useful in this book; Gutterman's analyses are extensive and well-researched. He sheds light on an aspect of religious movements seldom discussed in the social science literature. However, several flaws detract from the strength of his argument. Some readers will find his definitions and descriptions of social movements incomplete and confusing. (It seems a stretch to consider Billy Sunday in the same vein as the Civil Rights movement.) Most troubling however, is the sense that the normative framework by which he judges these movements is based in part on the movements' characterizations of themselves. Although Gutterman claims to distrust groups' own definitions of their goals, the two groups with explicitly political aims fare well in the analysis, whereas the two whose stated goals are intentionally nonpolitical do not. This suggests that the same conclusion could be reached by simply labeling intentionally political groups as supportive of democracy and those with explicitly religious goals as being bad for democracy.

For those scholars who espouse Arendt's school of thought, the book provides insight into how religious movements approach democracy. Those who

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are not convinced that social movements' value should be judged in relation to their contribution to democracy may find Gutterman's argument less persuasive. In either case, he provides a very useful analysis of the rhetoric of these Christian social movements. Gutterman's explication of the writing and speeches of his subjects shows a comprehensive immersion in their rhetoric and in how these words illuminate the leaders' inner evaluations and motivations.

KIMBERLY H. CONGER
Iowa State University

The Politics of Minor Concerns: American Indian Policy and Congressional Dynamics *by Charles C. Turner. Lanham, MD, University Press of America, 2005. 172 pp. $27.00.*

Charles Turner's book addresses two broad questions about the policy process that are of interest to many political observers: what factors best explain the volume of legislative activity in a policy area, and what factors best explain the ideological direction of this legislative activity. The unique wrinkle in this book is Turner's choice of a "minor" policy area—defined as one that directly affects only a small portion of the population—as a case study: American Indian policy, 1947 to 2000.

Atypical of most case studies approaches, Turner's is highly quantitative. After providing historical background on Indian policy and placing it in the context of some major theories of congressional action, he lays out an analysis of the effects of party, ideology, constituency, region, and issue salience on congressional activity in this area. Chapter 3 focuses on explaining the volume of congressional roll call votes on Indian legislation and the likelihood of success on these votes. Chapter 4 analyzes the favorability of individual members of the House and Senate on these roll call votes. Chapter 5 examines the volume and ideological direction of Indian legislation reported by the key committees in each chamber. Chapter 6 presents a qualitiative comparison of the rhetoric on Indian policy contained in each party's official platform over time.

From the perspective of existing work on Indian policy, Turner presents convincing evidence that the conventional wisdom requires some revision. Turner cites multiple scholars who claim that congressional action in this area is largely nonpartisan. In contrast, his findings demonstrate that with the exception of one dramatic period of bipartisanship from 1967 through 1978, party variables have had a significant effect on the level of congressional activity, the likelihood of success, and the ideological content of Indian legislation. In general, Democrats have been more active, more likely to support the position of Indian groups, and more likely to produce liberal policy prescriptions. Turner argues that one of the reasons that these partisan effects may have been overlooked is that the content of the parties' public rhetoric—at least in their platforms—has been very similar. But he correctly notes that

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acknowledging the importance of an issue rhetorically does not necessarily reveal the level of attention or the content of policy prescriptions that a party's legislators will actually pursue.

From the perspective of congressional theories, Turner's findings, although generally solid, present less of a challenge to current thought. Turner cites classic works to argue that constituency variables are expected to trump party variables in explaining congressional behavior generally. When his results show that party effects are dominant, he claims that this demonstrates that Congress behaves differently on minor policy than the literature would seem to suggest. However, a considerable amount of current research does make the case that parties have a large, independent effect on congressional action on both major as well as minor legislation (for example, Gary Cox and Matthew McCubbins, *Setting the Agenda*, Cambridge: Cambridge University Press, 2005).

Turner also highlights his finding that the politics of congressional attention to this minor policy area cannot be adequately explained by theories of legislative incrementalism, and emphasizes the need for empirical analysis over a long time horizon to reveal patterns of change. Although he does not cite Frank Baumgartner and Bryan Jones's book, *Agendas and Instability in American Politics* (Chicago, IL: The University of Chicago Press, 1993), Turner has managed to present a nice case study of their punctuated equilibrium theory, in which a previously marginalized concern changes the terms of the debate to produce a dramatic policy change in a brief time span, setting a new equilibrium point for that issue.

DAVID R. JONES
City University of New York

Courts, Liberalism and Rights: Gay Law and Politics in the United States and Canada *by Jason Pierceson. Philadephia, PA, Temple University Press, 2005. 264 pp. Cloth, $68.50; paper, $22.95.*

The Case for Gay Rights: From *Bowers* to *Lawrence* and Beyond *by David A.J. Richards. Lexington, University Press of Kentucky, 2005. 247 pp. $29.95.*

From very different stages in their academic careers, Jason Pierceson and David Richards champion the role that progressive currents of liberalism can play in securing public recognition of sexual diversity. Each uses court judgments in lesbian and gay cases to explore the evolution of legal thinking about a crucial equity issue that only a few writers have tackled in a sustained way, and illuminates broader questions of political inclusion. Both are sharply critical of judicial and political preparedness to sustain dehumanizing prejudice, but are also optimistic about the prospects of change in what many observers would see as bleak times.

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Both writers challenge (explicitly or implicitly) the arguments of critical legal scholars who warn of meager gains from litigation arising from the narrow individualism or formal equality that frames even favorable rulings, or the "constraints" on courts and other legal actors in effecting broad social change.

Pierceson's first book is not without its limitations, but builds an enormously important research foundation. In an era when the U.S. federal courts have provided only fragmentary encouragement to litigants favoring equity for sexual minorities, he looks primarily to state courts. This is especially worthwhile in light of the primacy of state jurisdiction in areas such as family law and schooling that have become such front-burner issues. The book includes richly detailed accounts of legal and political developments in those states in which important gains have been secured. He extracts from these accounts expansive strains of liberal judicial thinking that does not conform to the narrow forms of "negative" liberalism that are clearly easier sells in the American body politic.

Pierceson is an unabashed reform liberal, and a defender of what he sees as increasingly sophisticated legal activists. He takes on those more skeptical of liberalism (communitarians for example) and of the role of courts (like Gerald Rosenberg) with gusto, and he scores important points. At times, though, he insists too strongly that every success story fits his argument about the centrality of litigation. He also underestimates the pressures on activists seeking change through courts to adopt relatively respectable frames for the change they seek, and to impose safe limits on their agendas.

One of the great strengths of Pierceson's book is that he looks beyond the United States, and particularly to Canada, although the non-American material is less substantial than implied by the subtitle. He has an admirable grip on many of the complexities of the Canadian case. He does, however, undervalue provincial appellate court developments during the early 1990s. He also misses early legislative moves in British Columbia, among them a pioneering law extending adoption rights to lesbian and gay couples in 1995. Pierceson's constitutional law is generally solid, though with a few slips—at one point he seemingly conflates two quite different "escape hatches" in the Canadian Charter of Rights and Freedoms (p. 168).

The central point that he wants to draw from the Canadian case is that genuine progress toward equity can be secured through litigation, and that Canadian courts have increasingly relied on the expansive form of liberalism he sees as a route to full equality for sexual minorities. I have some sympathy with this argument, although here, too, I am not convinced that he takes enough account of critics who argue on the limitations of legal victories in areas like marriage, creating rights for those who conform most to heterosexual models of respectability but not necessarily for others.

David Richards is a senior scholar of great distinction, and the broad lines of argument that he presents in this book have appeared in earlier work. What

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marks this volume out is the broad sweep of its chronicle, and the strength provided to it by his inclusion of autobiographical reflection.

The depth of Richards's philosophical foundation is fully evident here, not only in his dissection of diverse currents of liberalism, but also in his readings of court judgments. He also relies on years of intimate knowledge of the crucial players in gay-related court cases, and the trajectories of their legal thinking. For those (like me) who work on the politics of equity without being fully immersed in constitutional analysis, this is rich material.

Richards builds a philosophical and legal argument for the constitutional recognition of sexual diversity, with a particular emphasis on marriage. The power of Richards's analysis lies partly in the parallels he draws between the legal dehumanization of sexual minorities and the historical treatment of the "other" defined in racial, gender, and religious terms. He sees the acquisition of voice by lesbians and gays as built on processes and precedents similar to those established by African Americans, Jews, and women.

Richards's analysis of the role of gender categories in shoring up prejudice against sexual minorities is, to his credit, strongly informed by feminism. This is evident in his legal analysis, and also in his chapter on the psychological roots of prejudice. I am not sure how comfortably this fits with the rest of the book, and I detect in it a form of "essentialist" feminism that reifies the categorical rigidities he laments. Still, it includes important insights into the foundations of moral traditionalism, and into his own intellectual development.

Richards intensifies his critique of discriminatory currents of American constitutional law through a number of comparative observations. Here, though, he occasionally buys into a skewed representation of developments elsewhere as far in advance of the United States. True, Canada and most northern European countries have moved much further than the United States overall in recognizing same-sex relationships. But most did not do so remarkably early, and change within several of these countries is uneven across issue areas (strikingly so in the case of European parenting rights). The legal and social recognition of diversity beyond a relatively modest set of countries, too, is much more halting and limited than is widely believed in American academic circles. Richards's generalizations about activist challenges being relatively late to emerge in the United States, and his view that sexual minorities are more tolerated in Europe (pp. 27, 29), also need more nuance.

Richards, like Pierceson, places court rulings shaped by expansive liberalism at the forefront of political and social change. In a way, both writers understate other sources of political and social change. However, they offer an important corrective to overly pessimistic accounts of the potential of law and litigation to effect change. In the face of formidable odds, including a religious right focused more pathologically than ever on gay rights, activists and their legal supporters have secured impressive gains through the courts. These gains are more striking and, in some cases, more pioneering than many European

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and Canadian observers appreciate, and even now continue to expand the political space for sexual minorities to live more openly.

These are impressive books containing a wealth of intelligent argumentation. They deserve wide reading in fields far beyond constitutional law and among those many circles still reluctant to take the politics of sexual diversity seriously.

DAVID RAYSIDE
University of Toronto

Interpreting State Constitutions: A Jurisprudence of Function in a Federal System *by James A. Gardner. Chicago, IL, University of Chicago Press, 2005. 312 pp. $45.00.*

Delivery of the Democratic response to President George W. Bush's 2006 State of the Union address by a governor, Timothy M. Kaine of Virginia, reflected a glacial change occurring in American politics since Richard M. Nixon's 1968 presidential election. The quarter-century march of Republicans into the halls of federal power, from 1968 to their congressional victories in 1994, led many liberals and Democrats, formerly champions of federal power, to extol the states as virtuous counterweights to a conservative federal establishment.

The first significant manifestation of this attitude change was the "new judicial federalism," which emerged in the mid-1970s as a reaction to conservative rights rulings by the U.S. Supreme Court after Nixon's appointments of Chief Justice Warren E. Burger in 1969 and Justice William H. Rehnquist in 1971. Through the new judicial federalism, state courts grant greater individual rights protections under their state constitutions than the U.S. Supreme Court provides under the federal Constitution. For example, although the U.S. Supreme Court has ruled that First Amendment free-speech rights are not protected in private shopping malls, several state high courts have ruled that such rights are protected under the state constitution. So long as rights-expanding decisions are based solely on independent and adequate state constitutional grounds, they are not subject to U.S. Supreme Court review. State high courts have issued more than 400 such decisions since the 1970s.

This is the departure point for James A. Gardner's fascinating book. Gardner criticizes state courts for not being more assertive. Most state court judges continue to rely on federal constitutional rulings and doctrines when they interpret rights provisions of their own constitutions. This submission to federal constitutional law is due in part, argues Gardner, to the lack of a correct rationale for the new judicial federalism. There are problems with the "primacy approach" (p. 44), which treats a state's constitution as though it were the governing document for a free-standing polity, and with the "interstitial approach" (p. 44), which treats a state's constitution as a source of rights that supplement inadequate federal rights protections. In turn, basing state

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constitutional interpretation on the character and values of a state is an unrealistic form of "romantic subnationalism" (p. 21).

Instead, argues Gardner, state constitutions should be interpreted in light of their true function in the federal system, namely, as agents of federalism in which a state's constitution protects liberty against abuses not only by the state government but also by the federal government. "Acting as an agent of federalism... requires a state court to interpret its state constitutions [*sic*] instrumentally—that is, to interpret it with the deliberate purpose of undermining acts of the national government that the state court believes threaten liberty" (p. 19).

Ultimately, Gardner's development of this view is disappointing. He does not articulate clear, rational criteria for how state courts would decide whether and why federal rights rulings threaten liberty. His approach also repeats one of his criticisms of the new judicial federalism, namely, that expansive state constitutional rights rulings often turn out to be nothing more than what a dissenting U.S. Supreme Court justice claimed in a corresponding federal case. His hypothetical state supreme court opinion, offered to illustrate how a court would interpret its state constitution as an agent of federalism, turns precisely on a dissent in the corresponding federal case. The opinion's agent-of-federalism rhetoric appears to be little more than an excuse to depart from federal precedent, something state courts already do under the new judicial federalism. Why state judges, who still depart from federal precedent only occasionally, would embrace this openly oppositional approach, especially when they can achieve the same ends less provocatively, is not made clear.

JOHN KINCAID
Lafayette College

Restoring Free Speech and Liberty on Campus *by Donald Alexander Downs. New York, Cambridge University Press, 2005. 318 pp. $28.00.*

Free expression on college and university campuses has undergone remarkable change since the early 1960s. This period has witnessed substantial expansion in the freedom that individuals on campus have to express their views, so much so that the days of anti-communist loyalty oaths and the calling forth of the National Guard to quell campus protests seem like distant memories with little chance of being repeated at the commencement of the twenty-first century. But this period has also seen the development of new forms of regulations and procedures that have significantly constrained what individuals may articulate on college campuses. Unlike previous restrictions, which came from right-wing forces external to the institution, these new restrictions are predominantly imposed from within institutions of higher education by left-wing campus constituencies. In his recent book, *Restoring Free Speech and Liberty*, Donald Alexander Downs provides a detailed, critical, and ultimately con-

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demning portrayal of this trend toward enacting speech-restrictive policies on American college campuses.

Downs explains that since the late 1980s, institutions of higher education have enacted campus speech codes designed to curb offensive expression—particularly that which offends on the basis of race, sex, sexual orientation, religion, or other ascriptive human traits. In addition, colleges and universities have adopted orientation programs that train students, faculty, and staff to exercise tolerance, respect, and civility toward others during their interactions. Finally, institutions have narrowed the procedural rights afforded during campus judicial hearings to individuals being disciplined for allegedly violating speech codes. Increasingly, disciplinary boards have begun to presume the guilt of those charged with violating speech codes, and have denied such fundamental procedural rights as the right to be represented by a lawyer and the right to hear and ask questions of witnesses providing testimony.

Downs explains that he was not immune to this trend. As a member of the University of Wisconsin's faculty senate, he voted in 1988 for a campus speech code. He was persuaded that the policy would promote civility, harmony, and mutual respect, and—by providing a safe environment for historically oppressed groups—stimulate intellectual diversity and broaden the variety of views being expressed in campus discourse. Indeed, Downs provides a balanced and fair-minded presentation of the arguments—many of which are eminently reasonable—for enacting such codes. In doing so, he demonstrates how easily a rational person can conclude that speech codes serve compelling interests, and how one harboring doubts about the dangers posed by such codes may convince himself in good faith that these will be fairly and rationally enforced by campus administrators.

But Downs describes how he soon became disillusioned with Wisconsin's speech code, as well as with similar policies that were developed at other institutions of higher education. One recurrent problem Downs identifies is that speech codes are often ambiguous and unclear, thus imposing a serious chilling effect on campus discourse. Not sure what can be said without retribution, individuals begin to hold back on expressing their views on issues pertaining to race, religion, sex, gender, sexual orientation, and other controversial social and political topics. He also argues that speech codes are paternalistic attempts to shelter traditionally oppressed groups from offensive speech, and thus are demeaning to the individual integrity of members of those groups.

Downs fundamentally disagrees with those who argue that public discourse on these sensitive topics should be discouraged—that people ought to think carefully before they say something that might deeply offend their listeners. Instead, Downs strongly contends that colleges and universities should provide individuals with the liberty to express ideas and views about all topics. This is essential, he explains, if colleges and universities are to successfully promote their fundamental mission of promoting humanity's search for the truth. This pursuit will be jeopardized if individuals are cowed by speech codes

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into remaining silent, or are induced to articulate their support for ideas in which they do not believe because such views are deemed safe. Indeed, Downs argues that this tendency toward the expression of false preferences is potentially worse than not speaking at all, because it will bolster the ideological status quo on university campuses, and thus further entrench the power of those who support speech-restrictive codes.

MARK KEMPER
Bridgewater State College

It Takes a Candidate: Why Women Don't Run for Office *by Jennifer L. Lawless and Richard L. Fox. New York, Cambridge University Press, 2005. 224 pp. $22.99.*

Women have made significant gains in the United States in terms of achieving equality in the professional world. So why, in the twenty-first century, are women still so underrepresented in the American political system? Although a number of scholars have explored the institutional and social barriers to women's representation in office, until now, no one has studied in a systematic and large-scale way how political ambition, the desire to seek office, may account for the sex differences in representation. In their book, Jennifer L. Lawless and Richard L. Fox have conducted groundbreaking research to understand why some people consider running for office and others do not. What their research reveals is that women's underrepresentation in office is due in large part to the fact that women are much less likely to be politically ambitious than are men. In an engaging, well-written, and thorough examination, these authors explore the causes of political ambition for men and women, and their findings reveal important and, in some cases, surprising results.

The first step to office holding is the desire to seek public office. Typically, studies of political ambition have focused on understanding the ambition of those who have entered a campaign or won office. However, these studies have missed those who could have run for office but never considered doing so. Why are some people willing to consider a run for office, whereas others are not? How does one go about studying the differences between those who do want to run and those who do not? In an ingenious approach, Fox and Lawless identify a sample of 3,800 men and women who are "swimming" in what scholars call the "eligibility pool" for political office. In other words, these respondents have the educational and professional backgrounds typically shown to situate individuals well for political office holding. The authors find that despite their relative equality to the men in the sample in terms of background qualifications, the women in the sample are much less likely to have considered running for office. They investigate what they call the "two-stage candidate emergence process" (p. 18) and find significant gender differences in considerations to run for office (the first stage), although less dramatic gender differences among those who have actually run for office (the second stage).

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Using their comprehensive survey data coupled with in-depth interviews of a subset of the respondents, Lawless and Fox identify three primary explanations for the different levels of political ambition among these equally qualified potential candidates. Specifically, Lawless and Fox find that women are less likely than men to consider or to have ever considered office seeking because of family socialization, traditional masculine beliefs about politics, and gendered psychological orientations toward participation.

Although this study and others show that women continue to bear more of the responsibility for care of children and the home, for the professional women in the study, this was not the most significant familial factor shaping ambition. Instead, early family socialization was more important. Specifically, women were much less likely to have been encouraged by their parents to consider a run for office. Similarly, traditional, masculine orientations toward the political system mean that the parties and other important political activists are much less likely to ask women to run for office. Finally, and perhaps most surprisingly, women are less likely to seek office than men because they are more likely than men to believe that they lack the qualifications for office. This finding is most alarming for those who value and seek gender parity in office, because the women in this study were chosen *because* they were, by all traditional measures, quite qualified to run for office.

Lawless and Fox have identified through this important research a significant obstacle to women's representation: low levels of political ambition. Given that the youngest women in their sample have the lowest overall ambition, it seems unlikely that great progress toward equality in representation in the United States will occur soon.

ELIZABETH S. SMITH
Furman University

Women in the South African Parliament: From Resistance to Government *by Hannah E. Britton. Champaign, University of Illinois Press, 2005. 224 pp. $35.00.*

This modest book describes the gendered transformation of the South African Parliament during the transition from apartheid in the 1990s. Hannah Britton interviewed dozens of women parliamentarians, many of whom shared with her their concerns about their new roles and their expectations in regard to these roles. The focus of the book is not on individual experiences, however, but rather on how the new female parliamentarians reshaped Parliament, and how the exigencies of political life in Parliament in turn reshaped the parliamentarians.

The book begins with a lengthy chapter on women in the South African struggle against apartheid. The author's exploration of the paradoxes of a liberation struggle within a patriarchal organization and society is well done, and a good introduction to South African women's organizations and their

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evolution over time is presented. My one quibble, and unfortunately an important one for teachers thinking of assigning the book, is that there is no clear time line presented in this introductory chapter for the transition from apartheid. Although several pages explain clearly how the Boers came into being, and follow their travails in the 1800s, there is nothing similar helping the reader understand the political transition. F.W. de Klerk, for example, does not appear anywhere in the book. Britton seems to have taken for granted that everyone knows how and why the transition happened.

Chapter 2 addresses the role of the Women's National Coalition (WNC) in the context of the transition, and its roots in earlier women's organizations. Britton does a creditable job of demonstrating how the WNC may have been responsible for what became perhaps the most gender-progressive constitution in the world, and for the most well-known gender quota by a major political party, the 30 percent quota of the African National Congress. There is no doubt also that these achievements were major departures from the experience of previous African liberation struggles, where women were cast out from national politics after power was attained. An opportunity is wasted in this chapter, however, to give a thorough explanation of the role and controversy of Winnie Mandela as a narrative touchpoint for exploring the issues during the transition. Instead, only two oblique paragraphs are devoted to the subject (p. 47). Was she not a woman in Parliament with a public record that might be of interest in a discussion of women's issues? The omission draws attention to a more general problem with the book: when it comes to political conflict, Britton strives for generalization at the expense of the particular and the day-to-day battles of politics. There is no *journalism* (in the good sense) in the book, and that, it seems to this reviewer, is a missed opportunity. It is as if Britton were worried about offending particular persons. The surely unintended consequence is that all of the excitement and drama of the transition has been stripped from the narrative.

Chapter 3 addresses women's integration into Parliament. Britton examines, in this and subsequent chapters, the critical-mass hypothesis that legislation and policy will increasingly favor women if women parliamentarians or policy makers cross a threshold. The hypothesis posits a disjuncture, somewhere around 30 percent. Britton adds nicely to this literature by asking, in her extensive interviews with women parliamentarians, how effective women can be when the Parliament is profoundly gendered in such a way as to greatly reduce their effectiveness. In these interviews, she also traces the many obstacles encountered by women parliamentarians, such as extra workload, male resistance, party policy, and double workdays, when childcare is needed in the evening.

Chapter 4 is a valuable and interesting classification of women parliamentarians into various socioeconomic groups, tracing their shared attitudes and abilities. Britton demonstrates with clear prose the nice point that women parliamentarians in transitions like that of South Africa may have widely

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different backgrounds. The point made here, and then in chapter 7 on the second generation, is that non-professional women have a very difficult time indeed. The party and state, then, would seem to have an obligation to create and maintain the training structures needed to ensure that non-professional women can thrive in Parliament. Just as South Africa was a pioneer in generating formal representation, so too is there an opportunity for ensuring broad rather than elite representation.

Suffused in the substantive chapters of the book is a major theme: what have women accomplished in the political sphere in South Africa? Britton is not entirely laudatory (p. 85): "Gaining formal political representation for women may be seen as the most significant accomplishment of the women's movement in South Africa to date." But has that representation secured gains for ordinary women? Britton often uses the words "effective" and "success." Has representation been effective? Has it been successful? Consider page 142, on which there are ten separate statements about "effects/effectiveness" or "success." Some of the statements represent Britton's own position, and some are reports or quotes from other authors. Yet none of the statements are actually founded on a carefully established metric and an ensuing consideration of outcomes. Instead, the statements are generalities, almost platitudes, and are not critically examined.

In presenting the legislative accomplishments of female parliamentarians and the possibilities that South Africa has institutionalized state feminism, Britton stumbles. Without a metric of effectiveness or success, though, too often the discussion ends up being of the sort: "It did this and this was good, but it also did that and that was bad." The reader has no way of judging what Britton's position is overall. Consider, for example, the discussion of the Commission on Gender Equality (CGE). Brief mention is made (p. 119) of the Commission's search and seizure power. An evaluation is promised in the following chapter. There, in chapter 6, two short paragraphs are devoted to CGE activities, and one to challenges to the organization; but there is no discussion of the search and seizure provisions that were discussed in the earlier chapter. The discussion of the other elements of the National Gender Machinery is likewise elliptical, so that the reader will find himself or herself searching the Web for newspaper articles that describe more fully what the gender organizations actually did.

Moreover, there is little material about the actual debates on women's issues and interventions by women on those issues in Parliament. In fact, there seems to be only one quote in the entire book from a floor speech by a woman in Parliament (p. 53), despite Britton's apparently careful search of the entire parliamentary record (pp. 165, 166). Although there are occasional summaries of debates, it would have been valuable to see more content analysis (either quantitative or textual) of pertinent debates. Considerable attention is devoted to the censorship and pornography issue, even though Britton quite rightly notes that this was an elite issue, and of little concern to the ordi-

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nary working woman in South Africa. Bread-and-butter issues are, however, largely absent from the book. No mention is made of the South African pension or of schooling policy, and there is only a passing nod to land ownership issues.

All in all, however, this is a commendable introduction to the gender issues confronting women parliamentarians in South Africa. One hopes the author will go on to produce more work on gender policy, and continue to track and report on the experiences of women parliamentarians in South Africa. Chapters of the book will be useful for classes focusing on the experiences of women in politics and, more broadly, of researchers examining the links between women's representation in government and gender policy.

MICHAEL KEVANE
Santa Clara University

Africa's Media: Democracy and the Politics of Belonging *by Francis B. Nyamnjoh. London, Zed Books, 2005. 320 pp. Cloth, $85.00; paper, $25.00.*

This book is an informative and quite comprehensive overview of the media situation in Africa, especially as it relates to the ongoing process of democratization. The author covers Africa more generally and offers his own native country, Cameroon, as a case study. The book is divided into nine chapters, discussing both political and professional issues facing the task of strengthening modern media and their role in promoting democracy. The analysis straddles the formal and the informal. Thus, much of it is nested in the "politics of belonging" (p. 3), Francis Nyamnjoh's term for the politicization of ethnicity in Africa. His argument is that the media have difficulty in emancipating themselves from the insular perspective associated with this type of politics. He even goes as far as suggesting that journalists and editors in Africa often act irresponsibly and unethically, making allegations without backing them up with facts. To be sure, he acknowledges the difficulties that reporters face in trying to pursue facts in African officialdom, but he accuses the media of being too commercially driven. This criticism he applies not only to the many tabloids that now flourish in African countries, but also to other, more mainstream media. Although in the past, governments succeeded in muzzling the media, these days, the media take liberties that cause confrontations with government to an extent that was not the case before the process of democratization began.

Africa's Media is written by one of Africa's most versatile and productive social scientists. Nyamnjoh has served as professor in sociology and anthropology at universities in Botswana, Cameroon, and South Africa. Before taking up his current position as associate professor and head of publications and communications with the Council for the Development of Social Science

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Research in Africa—the equivalent of our Social Science Research Council—he served as vice president of the African Council for Communication Education from 1996 to 2003.

My own assessment of the book is that it is rich in facts and details but thin on theory. There is no attempt to systematically analyze the media with a view to explaining their shortcomings. The author accepts that the media are both part of the problem and the solution when it comes to building democracy in Africa, but it is difficult to grasp what the main factors are, other than the politics of belonging and a lack of professionalism in the media corps.

The book also could have benefited from a more thorough edit: it is quite repetitive, the chapters that deal with the specific situation in Cameroon could have been shortened, much of the detail is superfluous, and the main points could have been covered in the chapters dealing with the African situation at large. The author also includes a lot of political history that seems unnecessary for the purposes of his argument. For instance, the long history of politics in Cameroon, although interesting for the uninformed, really does not add anything to the discussion of the contemporary media situation.

Nyamnjoh's conclusions are quite pessimistic. No one can deny that the media situation in Africa, compared to other regions of the world, leaves a lot to be desired, but his dim view seems to stem from his own intimacy with the conditions in Cameroon. His native country is at the bottom end of the democracy ladder in Africa, and it is fair to say that conditions for the modern media tend to be much better in many other countries—Nigeria, for example, and particularly East Africa and South Africa.

GORAN HYDEN
University of Florida

Virtual Politics: Faking Democracy in the Post-Soviet World *by Andrew Wilson. New Haven, CT, Yale University Press, 2005. 352 pp. $40.00.*

Andrew Wilson's book expertly plumbs the depths of post-Soviet politics, introducing readers to a world in which cynical "political technologists" craft and destroy people, parties, and programs in order to achieve and maintain power for their unprincipled clientele. This is a study of elite political culture, focusing on the "black arts of political manipulation and double-speak inherited from the Bolshevik era" (p. xv). Wilson challenges those who view post-Soviet politics through the lens of transitions to democracy. Instead, he argues that "fake" democracy reigns supreme, and that politics has changed primarily in appearance, not substance, since the Soviet era. At the same time, he rejects deterministic arguments that posit a deeply rooted authoritarian political culture in the region. Rather, post-Soviet elites have built upon past practices because they find them expedient and can get away with it.

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Wilson's looking-glass world comes complete with its own vocabulary, euphemisms describing the various methods of virtual politics. He introduces us to "administrative resources," "black PR" and *kompromat* (damaging information gathered and used in order to discredit a political opponent), "active measures" (projects staged to weaken the opposition), "virtual parties" (parties created without a popular constituency to serve a political purpose), "the many-layered pie" (creating smaller parties designed to boost the fortunes of the party of power), "body doubles" (undercutting political opponents by running candidates with the same name in their districts), and a variety of other tactics ranging from advertising campaigns to outright electoral fraud and violence. This is designer politics, where every image is crafted and no politicians are what they seem. Although Wilson recognizes that elements of virtual politics occur in other parts of the world, he argues that virtual politics in the post-Soviet states differs in the immense scale of its ambition, the broad range of tactics employed, and the attempt by elites to control so much of the political scene.

Why has virtual politics become so ubiquitous? Wilson argues that "there are four key conditions for the practice of virtual politics in the post-Soviet space: a powerful but amoral elite; a passive electorate; a culture of information control; and the lack of an external counterpoint, that is, foreign intervention" (p. 41). Post-Soviet leaders use virtual politics to create the façade of democracy, both to maintain a good relationship with the West and to manipulate their own populations. Virtual politics operates in the twilight zone between democracy and authoritarianism, inasmuch as true autocrats would not need to employ extensive virtual politics to maintain their power.

Like any ambitious and timely book, *Virtual Politics* does have its flaws. As a political scientist, I would like to have seen a more systematic explanation of when these manipulative methods work, when they don't, and why. Although the four conditions above describe the general atmosphere that permits virtuality, the political technologists' specific tactics often fail even under these conditions. Do these failures fit into any particular pattern? Moreover, Wilson often either doesn't explain how these conditions come about, or explains their persistence as a result of virtual political techniques themselves. The book also claims to cover all of the post-Soviet states except the Baltics, but only explores Russia and Ukraine in any depth. Most mysteriously, Kyrgyzstan, the most politically open of the Central Asian states throughout the 1990s, is never mentioned. Finally, Wilson's primary sources are inevitably the very newspapers and political technologists who themselves specialize in manipulating information. Nevertheless, Wilson's well-researched book reveals the fascinating and sadly understudied dark side of post-Soviet politics. It should be required reading for anyone who hopes to understand political development in the post-Soviet world.

JULIET JOHNSON
McGill University

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How Russia is Not Ruled: Reflections on Russian Political Development *by Allen C. Lynch. New York, Cambridge University Press, 2005. 288 pp. Cloth, $70.00; paper, $24.99.*

Russia's historical and cultural legacies as a highly centralized, authoritarian, and patrimonial state have proven highly durable through the centuries. Brief democratic interludes in 1917 and then again in the 1990s have coincided with state collapse, massive societal hardship and impoverishment, and international weakness. Allen Lynch persuasively argues that given the deep grooves of Russian history and culture, it was unrealistic to expect a rapid and pain-free transformation to liberal democracy after the collapse of the Soviet Union. The majority of Russians in the early 1990s experienced simultaneous political enfranchisement and economic disenfranchisement. One could have an anti-market democracy or an authoritarian market; but given Soviet legacies, the best-case scenario of market democracy, at least in the near-term, was a highly implausible case for Russia.

Allen Lynch provides one of the most thoughtful explanations for why Russia under President Vladimir Putin has moved away from the market democratic model to a hybrid that draws heavily on Russian political and cultural traditions. He essentially argues that the aspirations of the Boris Yeltsin government and the West to build a market democracy were crippled and likely doomed from the outset by the weakness of the Russian state. The "wild wild East" capitalism and the virtual privatization of the Russian state by a narrow oligarchy gave rise to at best very weak democratic institutions. Capitalism is a necessary but not sufficient condition for market democracy. Like Russia's attempt to build socialism without much of a proletariat, the attempt to transform into a market democracy without a middle class is a pretty tough row to hoe.

The legacy of the 1990s certainly explains Vladimir Putin's emphasis on the importance of restoring state power as essential for promoting Russia's future prosperity, as well as its recovery of international power and influence. But there are many different kinds of strong states, and it has become increasingly clear that Mr. Putin's conception of a "strong state" is embedded in nineteenth-century (or earlier) categories with traditional Russian features including the fusion of state power and property, the concentration of unaccountable power in the hands of the executive, and the failure of the state to guarantee the rule of law. These inclinations are only augmented by the massive temptations to rent-seek in petro-economies, which gravely weaken the incentives to build rule-governed institutional regimes. Lynch argues that this is especially true in post-Soviet Russia and post-colonial Nigeria, given their inheritance of devastated institutional landscapes.

All this helps to explain the reemergence of a neo-patrimonial state in contemporary Russia. But Lynch asks the provocative question, given the very high production costs that are two to three times higher in Russia because of

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its extreme climate and vast geography, can Russia ever function as a market economy? As historian Richard Pipes has argued, it was the combination of high production and high security costs that led to the patrimonial state in Tsarist Russia. [Richard Pipes, *Russia Under the Old Regime*, 2nd ed. (London: Penguin Books, 1995)] Although the costs of security are today relatively lower than at any other time in Russian history, Russia still faces what Fiona Hill and Clifford Gaddy described in *The Siberian Curse* (Washington DC: Brookings Institution Press, 2003, pp. 26–57) as the "cost of the cold."

Today, when Russia is awash in petro-dollars and is increasingly flexing its muscles toward its neighbors in ways counter to U.S. interests, it is easy to lose sight of the very fragile foundation on which Russian power and stability are constructed. Lynch concludes that policymakers need to take account of the major security dangers that a failed Russia, with its massive and still poorly secured weapons of mass destruction complex, could present as a result of a prolonged drop in oil prices. In the mirage of the oil and gas boom in Moscow today, these conclusions first strike one as perhaps anachronistic, but it would be wise for U.S. policymakers to keep such contingencies in mind.

ANDREW C. KUCHINS
Carnegie Endowment for International Peace

Contagious Capitalism: Globalization and the Politics of Labor in China
by Mary Elizabeth Gallagher. Princeton, NJ, Princeton University Press, 2005. 256 pp. $35.00.

In 1994, after two years of threatening to withhold most-favored-nation (MFN) status unless China improved its human rights record, President Bill Clinton caved, extending MFN status indefinitely. The rationale was that China's economic reforms and its integration into the world economy would lead inexorably to democracy. Mary Elizabeth Gallagher's investigation of the fate of the Chinese working class in the course of economic liberalization gives one set of reasons why this has not happened.

China's recent spectacular growth is reminiscent of that of the non-communist northeast Asian areas in the 1980s. The East Asian model entails a state–business coalition, dominated by the state, that fosters growth through exports. As it grew more wealthy, the business class was able to wrench some autonomy from the state, creating pressures for political change. In China, however, there was (at first) no private industry, and, Gallagher argues, foreign direct investment (FDI) served as a kind of substitute for private capital. The presence of foreign-invested firms forced the state-owned enterprises to enhance their competitiveness in both the labor and commodity markets. Need for increased efficiency led them to adopt more "capitalistic" practices

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with their own workers, cutting back on the job security and welfare benefits workers enjoyed under the Maoist order. The working class, along with poorer peasants, has been among the relative losers in the reform process. The absence of a private business class meant that there was little pressure for political liberalization, which would open up a channel through which workers could seek redress. China lacked the earlier Asian tigers' dynamic toward broader political participation.

The argument is convincing, although the logic does not always flow with Euclidian rigor. Gallagher may overstate the degree to which the state-owned enterprises (SOEs) have adapted themselves to the globalized economy—Chinese sources routinely call for "deeper" reform of the state sector. One measure of this lack of adaptation is the degree to which the SOEs remain stuck with the remnants of the older social contract with the workers. Gallagher argues that the reforms have enhanced the position of management at the expense of the Party and trade union organizations inside the firm. But trade unions were always under Party "leadership" and did not act as single-minded champions of worker interests. Under the old system, much of the time, real authority inside a firm might reside more with the Party secretary than with the manager. But in the absence of strong political campaigns, the major goal of the firms was always "production," meaning, in effect, the primacy of management concerns if not of the managers themselves. Gallagher speculates that with China's admission to the World Trade Organization and the growing role of nationalism as the operational state ideology, foreigners will become the main targets of workers' ample discontent. This is an interesting conjecture, but so far, anyway, the Party and bosses (foreign or Chinese) seem to remain the main objects of worker grievances.

The analysis shows that the effects of FDI may be mixed. Some foreign-invested firms have better labor practices than purely Chinese firms, and competition for labor may force better treatment for workers generally. The need to attract FDI encouraged movement at least toward an approximation of a rule of law: foreigners want some assurance that their capital will not be plundered and that contracts will be enforced. To the extent that law is effective, it limits arbitrary power over workers (another trait of the Maoist era) and potentially provides a way for them to get fairer treatment. Some of the problems of China's workers may stem from the state's not being capitalist enough. Advanced capitalist societies, at any rate, are (or were?) marked by elaborate state-supported pension, welfare, and unemployment systems, things lacking in socialist China.

Gallagher's book opens numerous questions for discussion. It is a useful corrective to overly facile assumptions about the connection between economic liberalization and political democracy.

PETER R. MOODY, JR.
University of Notre Dame

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Paths to a Green World: The Political Economy of the Global Environment *by Jennifer Clapp and Peter Dauvergne. Cambridge, MA, MIT Press, 2005. 336 pp. $25.00.*

For a few weeks late last year, the ecological interdependence of nation-states was on dramatic display as a fifty-mile-long benzene spill steadily worked its way through the Songhua River in northeastern China, eventually crossing the Russian border and threatening the primary water supply of some 500,000 residents of Khabarovsk. When global environmental disasters of this nature occur, the problems are not merely epistemological—those of determining scientifically whether and how much the chemicals endanger human and ecosystem health. The problems are also political and legal—those of sorting out where, by whom, and according to what standards the chemical spill can be challenged. And they are also deeply moral—those of somehow comparing the values at stake when individuals and groups claim the entitlement, or the desperate need, to pursue economic activities that may pose risks of harm to others downstream. Given these challenges, it is hardly surprising that most debates over globalization and the environment tend to become embroiled in misunderstanding and overheated exchange.

Paths to a Green World: The Political Economy of the Global Environment by Jennifer Clapp and Peter Dauvergne provides a welcome break from such dynamics. Their book seeks to offer the first extensive effort "to concentrate exclusively on the political economy of the global environment, striving to integrate the debates of the 'real world' of global policy and the 'academic world' of theory" (p. xi). The authors hope not only to provide an essential resource for academics and students in the underserved field of global environmental political economy, but also "to help scholars, bureaucrats, industrialists, and activists communicate in a common language" (p. xi) by carefully and dispassionately laying out the key positions that one finds in global environmental debates.

These ambitious goals are pursued, first, by developing an original typology of four paradigms or worldviews from which to approach global environmental issues and, second, by examining several of those issues in depth through the lens provided by each of the four paradigms. The four worldviews are those of *market liberals*, who pair classical liberalism with essentially laissez faire economic policy recommendations; *institutionalists*, who agree with much of the market liberal paradigm but who promote a larger role for multilateral institutions and global cooperation; *bioenvironmentalists*, who offer a contemporary, ecologically informed rendering of the 1970s era "limits to growth" perspective; and *social greens*, who see an inseparable linkage between issues of environmental law and policy, on the one hand, and issues of economic and political justice, on the other. Using these admittedly stylized worldviews, the authors proceed to analyze an impressive array of issues concerning globalization and the environment, including discussions of economic growth, political

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integration, transboundary pollution, trade, multilateral lending and investment, debt relief, governance of transnational corporations, labor and environmental standards, gender equity, indigenous cultures, and poverty elimination.

The presentation of *Paths to a Green World* is meticulously even-handed, an admirable trait for any scholarly survey, but especially so for one that covers a topic as heated and politicized as globalization and the environment. Still, instructors who utilize the text—and many should consider doing so—will want to also consider assigning materials that emanate more directly from within the four worldviews and that do not so studiously shy away from strongly asserting normative arguments or from drawing conclusions based on existing empirical evidence. Readers who follow Clapp and Dauvergne's discussion will come away with a nearly comprehensive map of the argument terrain in global environmental politics, but they may also come away somewhat numbed by the authors' assiduously descriptive, noncommittal approach, wondering in the end what the fuss is about, given that all of our evidence seems inconclusive and our argumentation perpetually rebuttable.

DOUGLAS A. KYSAR
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Understanding Institutional Diversity *by Elinor Ostrom. Princeton, NJ, Princeton University Press, 2005. 376 pp. Cloth, $60.00; paper, $27.95.*

Is scientific discourse possible in the absence of shared language? Obviously not. In *Understanding Institutional Diversity,* Elinor Ostrom borrows a term to describe the state of discourse among those interested in the form and function of institutions: "babbling equilibrium." This occurs when people use common language to express divergent ideas.

In this volume, which captures a great deal of Ostrom's well-known work, the author aims to establish a shared vocabulary and grammar for discussions regarding institutions. It is a useful ambition. However, one wonders whether Ostrom's system demands too much from potential users. If there is one thing we know, the babbling equilibrium is a stable one. Adopting Ostrom's Institutional Analysis and Development (IAD) framework requires mastery of jargon (e.g., "holons," "action arenas," "ADICO"), making its use costly. And here's the rub.

Like the commons problems Ostrom is so well known for studying, the "babbling equilibrium" can only be overcome if a language is adopted universally (or nearly so). Therefore, inaccessibility of any proposed *lingua franca* is highly problematic. Sad though it may be, there is a shortage of incentives for social scientists to worry about whether other scholars can synthesize their work with the existing body of knowledge. Combine the high costs of acquiring IAD fluency and the low rewards for doing so—especially in light

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of the low likelihood that others will choose to follow such an irrational path—and you have a classic collective action problem.

Ah, but is this a tragedy of the commons? That is, would we be better off if we were forced (perhaps fearing state sanction) to adopt Ostrom's framework for discussions of institutions? The answer depends upon one's assessment of the status quo and the IAD proposal. Ostrom's pessimistic view of the landscape is, in my view, accurate. Even across subfields of political science, writers interested in institutions and organizations offer little recognition and utilization of work done by scholars in other subfields. With a background in the public administration literature, I am often shocked at the complete indifference to decades of work on the design, structure, and management of organizations when researchers in areas such as international relations confront the "black box" of organizations. And yet such oversight pales in comparison to the utter disregard of an entire discipline's work when scholars in one field move onto a "new" topic. Surely, the tower of institutional knowledge could reach greater heights if we all spoke the same language.

The common tongue offered by Ostrom has a great deal to recommend it. She proposes to understand complex systems and the subsystems (dubbed "holons") of which they are comprised by looking at "action situations" (when actors are faced with decisions and must evaluate and choose among multiple alternatives). With her framework, Ostrom proposes a list of elements making up the landscape with which we should be concerned. She is careful to distinguish this *framework* from a *theory* that would stipulate which parts matter when and a *model* that would posit assumptions and predictions about how and why the parts interact.

The differentiation of frameworks, theories, and models is important because it means that Ostrom's IAD framework does not presuppose one set of assumptions or analytical tools. This may surprise some who associate Ostrom with game theorists or like-minded scholars. Indeed, Ostrom illustrates many of the ideas in this book with simple games (for example, the "Snatch" game) and the layers of complexity that can be built upon them. Nevertheless, she is careful to point out that one can use her *framework* with multiple approaches or assumptions. A useful discussion, to illustrate this embracing of intellectual diversity, concerns the various ways in which a set of "rational actor" assumptions can be adapted. We might introduce the idea of bounded rationality to capture the incompleteness of information possessed by decision makers. We might alter the assumptions regarding individuals' valuation of outcomes (material benefits are not everything) to reflect the true variety of value systems. We might be more precise about the processes that individuals use to make decisions in different situations (under time pressure, say). While Ostrom acknowledges that some critics will see this as "messy," she argues that it is a necessary sacrifice in order to get things right.

In other respects, the IAD framework seems to be more rigid. Ostrom wants to differentiate among rules, norms, and strategies. *Rules* (she says) have

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five elements: attributes, logical form (for example, may/must/must not), outcome, conditions, and consequences of "disobedience." *Norms* have no potential sanction. *Strategies* do not have conditional applicability. A nifty little chart shows the humpty-dumpty nature of existing scholarship using these definitions; many people using the term "rules" don't meet Ostrom's definition, whereas some call her "rules" norms, and so on. The superiority of Ostrom's definition may not be clear, but it has the major advantage of being explicit.

Common-pool governance systems have been the substantive focus of Ostrom's work on institutions, and the book concludes with an application of the IAD framework to this subject. In explaining what makes such a system effective, she notes eight variables common to all robust systems: defined boundaries, proportionality between costs and benefits, monitoring, conflict resolution mechanisms, graduated sanctions, recognized rights to organize governance mechanisms, participation, and subdivision of large systems.

Although this is an interesting observation, it is not enough to conclude that these eight features ensure successful governance. Ostrom, in fact, concedes that the eight characteristics are necessary but not sufficient to ensure success. She notes that rapidly changing environment, internal corruption, "blueprint thinking," and lack of infrastructure can doom governance arrangements. But this begs the question. Why do some institutions avoid these pitfalls but others do not? How do we know that not all eight characteristics existed for many systems that have failed and disappeared? And if they did exist, and the systems still failed, can we really say with much confidence that these eight characteristics are vital? This problem of non-barking dogs may undermine the prescriptive advice drawn from Ostrom's conclusions.

There is no doubt that we would be intellectually richer if all work on institutions were easily accessible. This is most likely to be accomplished if scholars try to stick with clear prose written in jargon-free common language. Still, Ostrom has created a vocabulary and grammar that accommodates multiple perspectives and arguments, even if it is partial to game theory. Indeed, the book's detours into more-formal analysis actually undermine this virtue by signaling that the IAD framework is for rat-choicers or game theorists only.

Alas, the requirements for fluency seem a bit too high for widespread adoption of Ostrom-speak. Thus, we will likely continue babbling and hope for an improbable collective realization that if we all willingly accept individual costs (in full knowledge that it is irrational to so), we would benefit from the emergence of an institutional *Esperanto*.

JONATHAN KOPPELL
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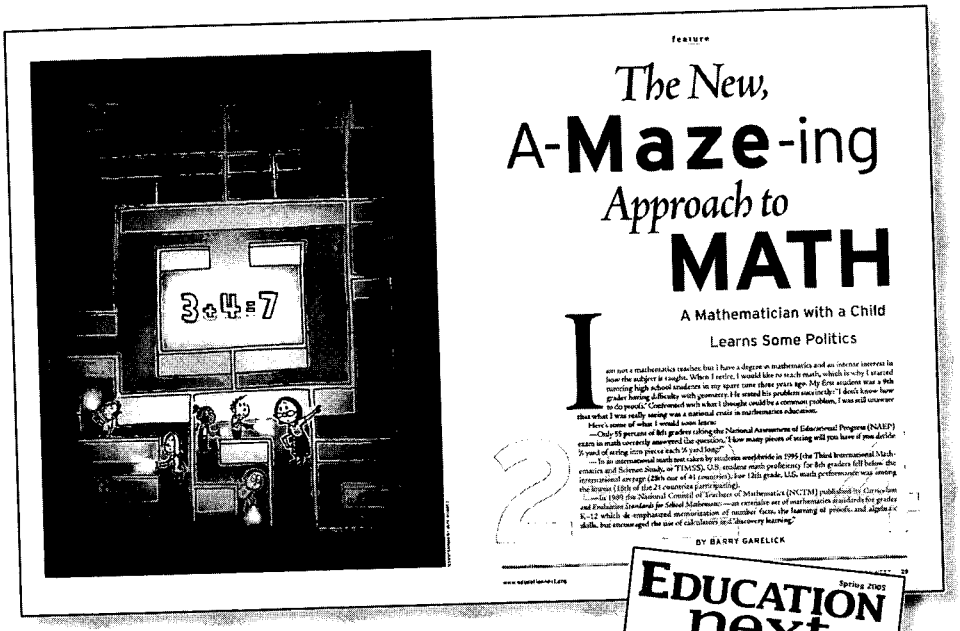

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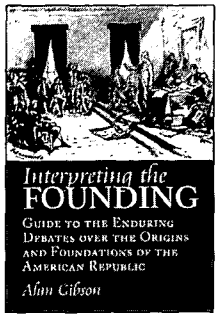
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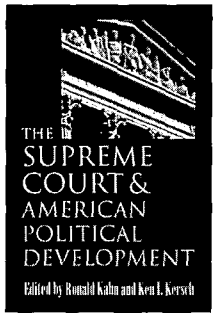

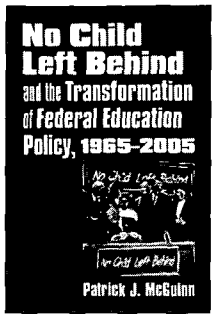

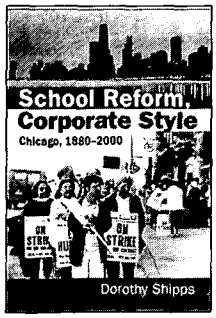

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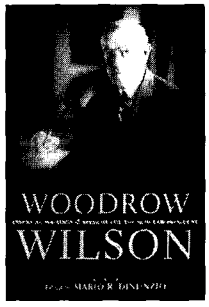

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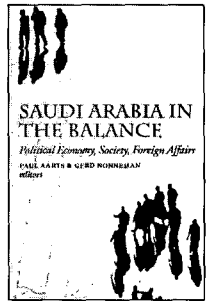

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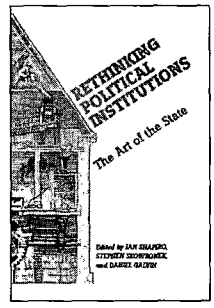

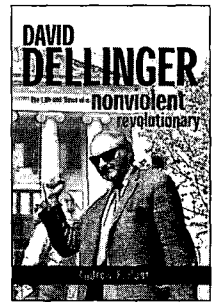

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